

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CASE NO. 06CV4701 (JAG)

BASSEM KANDIL and FLORA
KANDIL, his wife,

Plaintiffs,

- vs -

DEPOSITION OF:

BASSEM KANDIL
VOLUME 1POLICE OFFICER GARY
YURKOVIC, POLICE OFFICER
ANTHONY MARK ABODE,
POLICE OFFICER WILLIAM C.
OELS, III, SERGEANT WILLIAM
OELS, CHIEF OF POLICE, CITY
OF NEW BRUNSWICK, CITY OF
NEW BRUNSWICK POLICE
DEPARTMENT, MIDDLESEX
COUNTY PROSECUTOR'S
OFFICE, MIDDLESEX COUNTY
CORRECTIONAL FACILITY,
JOHN DOE SUPERVISING
OFFICERS 1-10, JOHN DOES
1-10, ABC CORPS. 1-10,

Defendants.

September 24, 2008
Succasunna, New JerseySUPERIOR COURT REPORTERS, INC.
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612 BERGEN BOULEVARD
RIDGEFIELD, NEW JERSEY 07657
(201) 941-1550

I N D E X

WITNESS

DIRECT

CROSS

BASSEM KANDIL

BY: MR. CONNELL

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E X H I B I T S

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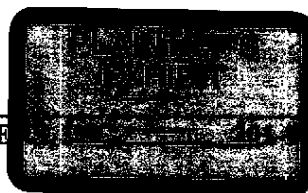
B E F O R E:

CATHY MC MAHON, Certified Court Reporter and
Notary Public of the State of New Jersey, at the
offices of NUSBAUM, STEIN, GOLDSTEIN, BRONSTEIN & KRON,
P.A., 20 Commerce Boulevard, Succasunna, New Jersey, on
Wednesday, September 24, 2008, commencing at
10:05 a.m., pursuant to Notice.

A P P E A R A N C E S:

NUSBAUM, STEIN, GOLDSTEIN, BRONSTEIN & KRON, P.A.
BY: ROBERT D. ROBIN, ESQ.
For PlaintiffsDWYER, CONNELL & LISBONA, ESQS.
BY: WILLIAM T. CONNELL, ESQ.
For Defendant P.O. Gary YurkovicGOLDEN, ROTHSCHILD, SPAGNOLA, LUNDELL, LEVITT &
BOYLAN, P.C.
BY: GARY S. SPAGNOLA, ESQ.
For Defendant P.O. Anthony Mark AbodeTHE STONE LAW GROUP
BY: MICHAEL JOHN STONE, ESQ.
For Defendant P.O. William C. Oels, IIIHOAGLAND, LONGO, MORAN, DUNST & DOUKAS, LLP
BY: SUSAN K. O'CONNOR, ESQ.
For Defendants City of New Brunswick, New
Brunswick Police Department and Director
Joseph Catanese

1 B A S S E M K A N D I L, 2 Manchur Court,
2 Flemington, New Jersey, 08822, sworn.
3 DIRECT EXAMINATION BY MR. CONNELL:
4 Q Good morning, Mr. Kandil. My name is
5 William Connell. I'm with the firm of Dwyer,
6 Connell, Lisbona. I represent the interests of
7 Police Officer Gary Yurkovic in this law suit.
8 The other lawyers here present are Susan
9 O'Connor, who represents the City of New Brunswick;
10 Gary Spagnola represents Officer Abode; and
11 Mr. Stone represents Officer Oels, III.
12 A Okay.
13 Q Susan O'Connor also represents a
14 couple of other defendants like Sergeant Oels and
15 the director of police.
16 A Okay.
17 Q We're here to take your deposition.
18 We want you to be comfortable. If at any time you
19 want to take your jacket off and relax, ask for a
20 break, please feel free to do so. We're going to
21 be here for a couple of days, so we want to make
22 sure that you're comfortable when you're having
23 these proceedings.
24 However, they are still important
25 proceedings. As you know, you've just been placed



1 under oath. So if you don't understand a question
 2 that I've asked, please let me know because I'll be
 3 happy to repeat it or rephrase it to your benefit.
 4 A Okay.
 5 Q Any question that you answer, it's
 6 presumed you understood my question unless you tell
 7 me otherwise.
 8 All right. Your lawyer is seated next to
 9 you. You've had a opportunity to speak to
 10 Mr. Kandil concerning this proceeding. Is that
 11 right?
 12 A Mr. Kobin.
 13 Q I'm sorry, Mr. Kobin, concerning this
 14 proceeding?
 15 A Yes.
 16 Q And if he objects to a question,
 17 please allow him to place his objection on the
 18 record, and then he'll direct you what to do after
 19 that. All right?
 20 Is that a "Yes"?
 21 A Yes, sir.
 22 Q One other instruction. Although you
 23 and I can communicate just as you did there with a
 24 nod of the head, because it's being recorded you
 25 have to say "Yes" when you mean "Yes," "No" when

1 you mean "No," no nods of the head or hand
 2 gestures. If we're going to ask you for estimates
 3 of distances and things like that, we'll do our
 4 best to describe any gestures that you make on the
 5 record. Fair enough?
 6 A Fair enough.
 7 Q The lady between us is taking
 8 everything that we both say. Please allow me to
 9 finish asking the question before you give an
 10 answer because it makes her job a lot easier. I
 11 will try to give the same courtesy of allowing you
 12 to finish the question before I ask the next
 13 question. That being said, we're both going to
 14 violate that, but we're going to both try to do our
 15 best not to interrupt each other. All right?
 16 A Okay.
 17 Q The proceedings will then be put into
 18 a booklet form. It can be used at trial for
 19 purposes of cross-examination or for some other
 20 purpose that counsel my elect to use. Understood?
 21 A Yes.
 22 Q Do you have any questions about the
 23 proceeding before we begin?
 24 A No.
 25 Q All right. Now, your full name is

1 Bassem Kandil?
 2 A Yes, correct.
 3 Q Have you ever been known by any other
 4 name?
 5 A No.
 6 Q And your date of birth is what?
 7 A 5/29, 1975.
 8 Q And your Social Security number?
 9 A 178-64-3884.
 10 Q What's your place of birth?
 11 A Dover, New Jersey.
 12 Q And since your birth in Dover, I'd
 13 like to have the addresses where you have resided.
 14 What was the address in Dover, New Jersey,
 15 where you were living?
 16 A 5 Stephen Street.
 17 Q Is that S-T-E-V-E-N?
 18 A I believe P-H-E-N.
 19 Q And how long did you stay there? The
 20 age that you moved or something like that would be
 21 fine.
 22 A Probably four or five years old.
 23 Q Okay. Where did you move then?
 24 A From there we moved to Parsippany, New
 25 Jersey.

1 Q Do you know the address?
 2 A No. I don't remember it off the top
 3 of my head.
 4 Q How about the street?
 5 A 300 Parsippany Road.
 6 Q And how long did you live there?
 7 A I'd say --
 8 Q You can give me class years too.
 9 A Yeah. I would say third grade up to
 10 fifth or sixth grade.
 11 Q Okay. Well, in the third grade you
 12 were probably about nine years old. You said you
 13 lived in Dover for the first four years of your
 14 life. Was there someplace between the two, or did
 15 you live in Dover longer?
 16 A I went to Dover, to my recollection,
 17 it was up to first grade, kindergarten, first
 18 grade. We -- my parents owned a house, they owned
 19 a house in Randolph, but we were living still at
 20 the Stephen Street, but I went to school in
 21 Randolph for a couple years.
 22 Q But I mean was there any address
 23 between the Stephen Street and Parsippany Road
 24 address?
 25 A No.

1 Q So you think you may have also been in
2 the second grade while you were still at 5 Stephen
3 Street?
4 A Possibly.
5 Q After the sixth grade, where did you
6 move to?
7 A To Flemington.
8 Q And what was that address?
9 A Which was 5 Linden Court.
10 Q And how long did you stay at that
11 address?
12 A We stayed there approximately two
13 years.
14 Q Where did you go then?
15 A 9 Aberdeen Circle.
16 Q And that's also in Flemington?
17 A Correct.
18 Q And how long did you stay there?
19 A Pretty much up until 2004.
20 Q Okay. And is that where you lived at
21 the time of the incident?
22 A No. We had bought a house beginning
23 of '04, which was our current address, 2 Manchur,
24 M-A-N-C-H-U-R, Court, Flemington, New Jersey. I
25 think we moved in -- it was around March, April.

10
1 Q Your Answers to Interrogatories
2 mention March, so does that sound right?
3 A Yeah.
4 Q March of '04?
5 A Correct.
6 Q Up to the present?
7 A Yes.
8 Q And you live there with your wife?
9 A My wife and my daughter, who was two
10 years at the time.
11 Q And your wife is seated here right
12 now, and her name a Flora?
13 A Flora, F-L-O-R-A, Kandil.
14 Q And your daughter's name and age?
15 A Gabriella, G-A-B-R-I-E-L-L-A; and her
16 current age now or at the time?
17 Q How about her date of birth?
18 A 7/15/04.
19 Q And when did you get married?
20 A I'm sorry, 2002. I apologize.
21 THE WITNESS: Is it '02?
22 MR. KOBIN: You can't -- you guys
23 can't communicate.
24 MS. O'CONNOR: She can't help you,
25 just so you know.

11
1 BY MR. CONNELL:
2 Q That makes her six years old?
3 A She's six years old now, correct.
4 I apologize. With the situation, there's so
5 many things --
6 MR. STONE: Just say what you
7 remember, and you'll get grief when the deposition
8 is over from your wife. Don't worry about it.
9 THE WITNESS: No problem.
10 BY MR. CONNELL:
11 Q When did you get married? What was
12 the date?
13 See, this is the more important date, and
14 you're just messing this up now.
15 A Well, we had a civil -- like the
16 actual wedding date when we went in front of a
17 judge and got married?
18 Q When were you officially married?
19 A I don't know. I know the date of my
20 wedding was July the 28th. That was the actual
21 wedding; but we were married again in court before
22 that, so I don't want to give you any bad info.
23 Q You had a wedding on July 28th, 2004?
24 A Correct.
25 Q But you got married in a civil

12
1 ceremony before a judge before the more formal
2 ceremony?
3 A Correct.
4 Q More formal wedding?
5 A Yes.
6 Q Do you remember when that was? Was it
7 the same year?
8 A It was within that year.
9 Q Was it in that same month?
10 A No. I believe it was --
11 Q How about in relation when you got the
12 house? Do you have any idea whether or not you
13 were officially married before or after you closed
14 on that house in March of '04?
15 A We closed on the house. We physically
16 moved -- we moved in together a couple months after
17 that, so.
18 Q So it might be something like May?
19 A Could be, possibly, yes. Again, I
20 don't want to give you an exact because I don't
21 recall.
22 Q But --
23 A But we were married when we moved in,
24 you know, living together, and at the point of the
25 incident we were married.

13

15

1 Q You told me something different. You
2 said when you closed, you moved in together; and
3 after moving in together in Manchur Court, that's
4 when you got civilly married, officially married.
5 Isn't that right?

6 A Yes.

7 Q Okay. So therefore you moved in
8 together before you got married, got married, and
9 then you had the formal wedding in July.

10 Is that the chronology of events?

11 A We bought the house. We closed. We
12 moved our furniture in. We didn't physically
13 live-live together until we physically got our
14 civil marriage.

15 Q Okay.

16 A It was a marriage certificate, I
17 should say.

18 Q You are an American citizen?

19 A Yes, sir. I was born here, correct.

20 Q And your wife is also an American
21 citizen?

22 A Yes.

23 Q Now, your educational background is
24 what? Let's start from grammar school up to the
25 present time.

1 didn't continue with the master's?

2 A Financially. I just didn't have the
3 money to continue paying.

4 Q Do you have any intent to go back and
5 get your master's degree?

6 A I want to, but I just don't have the
7 time and the opportunity, but I would like to
8 finish it up.

9 Q The financial problems are still the
10 reason why you can't embark on it at this time?

11 A Yes.

12 Q Now, moving back before Rutgers, you
13 graduated in '97. What about high school?

14 A High school, Hunterdon Central
15 Regional High School in Flemington.

16 Q And year of graduation?

17 A '93.

18 Q Okay. And grammar schools?

19 A It was called Reading-Fleming Middle
20 School.

21 Q Reading?

22 A Yeah, Reading-Fleming Middle School,
23 which was also in Flemington.

24 Q Okay. And before that you were at?

25 A Before that I was in Eastlake

14

16

1 A When I went to school -- you'd like to
2 know where I started?

3 Q Yes. If you want to work backwards,
4 that's fine too.

5 A Bachelor's degree in biology, Rutgers
6 University.

7 Q Is that a B.S.?

8 A Yes.

9 Q What year?

10 A '07 -- I'm sorry, not '07, '97.

11 No, hold on. 1997, I apologize.

12 I started my master's degree. I did it for
13 little less than a year, which was from '07 until
14 February, March of '98.

15 Q You mean '97 again?

16 A Yeah, from '97 into beginning of '98.
17 I started master's, which was microbiology and
18 molecular genetics; and from there I was at
19 Hunterdon Central Region --

20 Q Before we go back that way, you had
21 one year basically of your master's of a two-year
22 program?

23 A Correct. It was a little less than a
24 year. It was a semester and like a half, sort of.

25 Q Okay. And what was the reason why you

1 Elementary School, which is in Parsippany.

2 Q Okay.

3 A Shongum Elementary School in Randolph.

4 Q How do you spell "Shongum"?

5 A I believe it's S-H-O-N-G-U-M, Shongum.

6 Q Elementary School in Parsippany?

7 A No, in Randolph.

8 Q Randolph?

9 A Yeah, Randolph, New Jersey; and then I
10 was in -- I'm sorry.

11 Q Go ahead.

12 A And then the school that was in Dover,
13 I don't recall the name. It was an elementary
14 school.

15 Q And have you had any schooling since
16 '98, formal schooling now?

17 A No.

18 Q In terms of employment, we won't talk
19 about what jobs you had while you were in high
20 school; but were you a full-time matriculating
21 student at Rutgers before graduation in '97?

22 A Yes.

23 Q And did you have any part-time jobs
24 during your college career?

25 A No, I just did volunteer work at a

17

1 hospital.
 2 Q Okay.
 3 A It wasn't really a job.
 4 Q What's your first job then since
 5 graduation?
 6 A My first job since graduation was
 7 James Toyota.
 8 Q James?
 9 A Yes, James Toyota.
 10 Q What town?
 11 A Flemington, New Jersey.
 12 Q And what job did you do?
 13 A I was salesperson, sales manager, and
 14 then also finance manager.
 15 Q Salesman for how long?
 16 Let's deal with years. Would this be after
 17 the master's program was over?
 18 A Yes, I started in --
 19 Q '98?
 20 A -- '98. It was around Valentine's. I
 21 guess that's what, February?
 22 Q February of '98 until when that you
 23 were a salesman?
 24 A '98 until 2002.
 25 Q Okay. And then you moved to a sales

18

1 manager position?
 2 A Sales manager position.
 3 Q From when to when?
 4 A You see, it was a Toyota dealer and a
 5 Hummer dealer, so I moved in and out. You know,
 6 they put me as an assistant manager in Toyota, and
 7 then they put me back on the floor and put me into
 8 Hummer. So exact dates, I'd say probably two years
 9 after that I was a Toyota and then a Hummer
 10 manager.
 11 Q Was the Hummer dealership still known
 12 under the James Toyota name or did you have James
 13 Toyota/Hummer or what was it?
 14 A Yeah, it was James Toyota and Hummer
 15 outlet. It was Toyota; and when they bought
 16 Hummer, it became Hummer outlet.
 17 Q With respect to your career from '98
 18 to 2002, you were a salesman for Toyota?
 19 A Um-hum.
 20 Q And then you were the sales manager
 21 for Toyota?
 22 A Assistant manager for Toyota.
 23 Q Assistant manager, not sales manager?
 24 A Correct.
 25 Q Okay. And what years did you do that?

19

1 A It was probably about a year.
 2 Q That brings us up to about 2003. And
 3 then what?
 4 A With Hummer again, sales manager.
 5 Q From when to when?
 6 A '03 to '04, '05.
 7 Q Okay. Then what?
 8 A Salesperson also with Hummer.
 9 Q Were you demoted from sales manager to
 10 salesperson?
 11 A Like I said, they moved me back and
 12 forth. Any time there was an opportunity, I would
 13 be able to -- I would have a chance for the
 14 opportunity, so I was sales manager -- I was sales
 15 manager with a manager above me for Hummer.
 16 Q What was the person above you's title?
 17 A GSM.
 18 Q General sales manager. And that
 19 person's name is what?
 20 A Andrew Tina.
 21 Q T-I-N-A?
 22 A Yes, like a girl's name.
 23 Q Okay. Are you saying that you flopped
 24 between being sales manager and salesman, depending
 25 upon the coverage on the floor?

20

1 A Correct.
 2 Q And how long did you keep that job as
 3 salesman?
 4 A Up until '06.
 5 Q And why did you leave James Toyota?
 6 A Bunch of us actually got let go. They
 7 hired a new general manager -- hired a new general
 8 manager and they fired about five, six employees in
 9 total, and basically next day they had a whole new
 10 crew.
 11 Q And so when they hired a new GM, they
 12 fired five or six employees, you were one of the
 13 ones that was let go?
 14 A Yes.
 15 Q Is that the only reason why you were
 16 let go?
 17 A Yes.
 18 Q Are you sure about that?
 19 A Um-hum.
 20 Q You are sure about that?
 21 A Yes, and that's the reason -- if you
 22 want to know the whole story from the beginning?
 23 Q No. I mean you basically just told me
 24 that you were let go because they just came in with
 25 a new general manager who replaced this staff with

21

23

1 a new staff?
2 A Correct.
3 Q Had nothing to do with your job
4 performance?
5 A No.
6 Q Had nothing to do with any impropriety
7 at James Toyota?
8 A Well, if you want the whole -- I can
9 start from the beginning then.
10 In May of -- around April or May of '07 --
11 Q Let me just make sure. We can go back
12 into it again. I just want to make sure you're
13 answering my question.
14 You have indicated that you were terminated
15 as a result of basically somebody coming in and
16 wanting to clean house and putting in a new staff.
17 Is that fair?
18 A That's the real reason why I was
19 fired.
20 Q There was no termination of you for
21 any impropriety during the course of your career at
22 James Toyota. Is that your answer?
23 A No, they did say -- they did say that
24 me and another finance manager -- there was an
25 issue with customers not getting the windows

22

1 etched, which was really a salesperson's job to do,
2 but we would do it when we had the time. In
3 reality, the salespeople are supposed to do it; but
4 that all stemmed from me giving my resignation back
5 in May or April, and then from that point on they
6 started hiring, trying to look for new finance
7 people.
8 Q Well, which came first, the charge
9 against you that you failed to provide etching for
10 customers that had paid for etchings and that you
11 were involved in those transactions or your giving
12 them your notice?
13 A My giving them my notice.
14 Q So you gave them notice, and then they
15 charged you with this failure to provide customers
16 with etchings?
17 A Correct, sir. I gave them my notice
18 in May or April of '07. Reason why I give them my
19 notice is Toyota, the actual manufacturing company,
20 they were getting me a job to work for a different
21 Toyota dealership; and the reason I got the job
22 from Toyota, based on my integrity and based on my
23 type of person I am, work ethically and my work
24 habits.
25 Q Who was the offer with?

1 A A Toyota dealership in North Jersey,
2 Prestige Toyota, which was considered the second
3 Toyota dealership in the New York region in regards
4 to volume.
5 I had went and given them my notice.
6 Q And when were you supposed to start?
7 If you had given them the notice in April or May of
8 '07, you obviously got the offer to go work for
9 Prestige -- is it Prestige Motors?
10 A I just know it's Prestige Toyota. It
11 could be Prestige Motors.
12 Q And it's in what town?
13 A Prestige Toyota?
14 Q Yes.
15 A North Jersey. I don't know if it's
16 considered Ramsey, Ramsey, New Jersey.
17 Q Well, did you go up for interviews to
18 Ramsey?
19 A Yes, I went up to North Jersey. I
20 don't remember the exact town. It was off
21 Route 17. I believe it was Ramsey.
22 Q And what job did they offer you?
23 A Finance manager.
24 Q And when were you supposed to start?
25 A They wanted me to start immediately.

24

1 I told them I have to give as a courtesy to my
2 current employer two weeks notice.
3 Q Did you give them two weeks notice
4 then?
5 A I told them give me a week to think
6 about it because it was a drive for me. I'm used
7 to driving two miles a day.
8 Q That's not my question. How much
9 notice did you give your employer?
10 A I waited a week. I went, I approached
11 the owner and his daughter, which was the general
12 manager, and I said, you know, "I'm giving you my
13 two weeks notice," and they had asked me to stay,
14 so I called Prestige and I reneged on the offer.
15 They told me to stay, and I explained, you know,
16 monetarily-wise and so forth that I needed to go.
17 So they said, "Stay and we'll work something out
18 for you money-wise" and so forth.
19 About a month later I got another offer
20 again from Toyota, again from Prestige Lexus. When
21 I didn't take the offer for Toyota, they wanted me
22 to go work for the Lexus dealership, which is the
23 second Lexus dealership in the United States in
24 regards to volume. I was going to be the assistant
25 finance director. Again, that's based on integrity

1 and the type of person I am, and these are jobs
2 that I had. I didn't really have to interview.
3 When I went there, they said, "You basically have a
4 job. We are just here really just to do," you
5 know, "just to do the routine."

6 Q So I assume both the Prestige Toyota
7 and Prestige Lexus, these jobs include more money
8 for you?

9 A Yes.

10 Q When you went back to give them your
11 two weeks notice to James Toyota, they promised you
12 more money to keep you?

13 A Correct.

14 Q And did they change your job title at
15 all to keep you?

16 A No. I was a finance -- I was in
17 finance that whole time.

18 Q That's not my question. Did they
19 change your job title at all to make it any more
20 attractive to you?

21 A No, they didn't change my title.
22 After I went to give them --

23 Q Forget about that. Let's deal one at
24 a time.

25 The first thing was Prestige Toyota comes

26

1 and gets you apparently because Toyota Motor
2 Company of America thinks that you're --

3 A Toyota Finance.

4 Q -- thinks that you are enthralled with
5 your performance.

6 A Yes, sir.

7 Q So they recommended you to Prestige
8 Toyota?

9 A Correct.

10 Q You then went up -- Prestige basically
11 said you got the job based upon these
12 recommendations. Your concern was the drive. You
13 go back. You give the people at Toyota, James
14 Toyota, notice. They then try to keep you and do
15 keep you, correct?

16 A Correct, but they didn't do anything
17 for me.

18 Q That's not my question. Just answer
19 my question and we'll get through this. All right?

20 It then comes a time there's a period of
21 time of what, the following month, that Prestige
22 Lexus tries to come and get you?

23 A Correct.

24 Q Again, you appear up there for an
25 interview. They offer you the job as assistant

1 finance director?

2 A Yes, sir.

3 Q You then go back, and you're thinking
4 about it. Again -- where is this dealership,
5 Prestige Lexus?

6 A Right next-door to the other
7 dealership.

8 Q Again, you have the same concern about
9 the length of the drive from Flemington there,
10 correct?

11 A Correct, sir.

12 Q And then you tell them again that
13 you're thinking of leaving to go to Prestige Lexus?

14 A Yes, and --

15 Q Did they offer you any more money
16 again?

17 A They said, "Give us a couple days,"
18 and, yes, they did offer us more money, so we wind
19 up staying.

20 Q Okay. What month what this that the
21 Prestige Lexus situation occurred?

22 A That was the following month from the
23 Toyota, so May or June.

24 MS. O'CONNOR: Of '07.

25 THE WITNESS: Yes, '07.

28

1 MR. CONNELL: '07.

2 Q So now you continue to work in your
3 same position at James Toyota, correct?

4 A Yes.

5 Q And at what point did this allegation
6 come up about you selling etchings to customers and
7 not performing that service for customers?

8 A After that, they made that second
9 offer, they increased our pay. There was two of
10 us, me and another person. From that point on we
11 got phone calls from people outside, friends,
12 saying that "Your job is in the newspaper."

13 So really from June, May, June, they
14 basically had our job positions in the newspaper,
15 both on the Internet and both in the regular
16 newspaper ad. We approached the sales managers
17 about it, and they joked around, "Well, our
18 position is in the paper too. I don't know about
19 it."

20 Later on they ran the same ad on the
21 Internet. They just took out their name, but they
22 still had the same contact. They hired a finance
23 director who came in who was above me who was my
24 supervisor, and I answered to basically whatever he
25 told me to do.

29

31

1 Q What's that person's name?
 2 A His name was Rui.
 3 Q Spell that.
 4 A R-U-I, Rui Perrera, P-E-R-R-A.
 5 Q Perrera?
 6 A Perrera. I believe it was P-E-R-R-A.
 7 Q Okay.
 8 A The sales managers, sales -- one of
 9 the sales managers, Andrew, which is basically the
 10 GSM, after Rui was there for a month or two months,
 11 grabbed us and said, "They're not happy with Rui's
 12 performance, so they have to make an executive
 13 decision to either let you two guys go" -- me and
 14 my partner go or Rui, and even said, "I hope it's
 15 Rui and not you because," you know, we worked
 16 together and so forth.
 17 Q Well, you remember being provided with
 18 a separation report that you actually signed where
 19 you acknowledged that there were nine customers who
 20 contracted for receiving etchings that you did not
 21 provide them?
 22 A I never even read the report. My
 23 partner signed, I signed and I left.
 24 Q You didn't even read the form when you
 25 were being charged with providing customers --

30

1 getting money from a customer to provide a service
 2 and you didn't provide that service at a charge,
 3 and you didn't even read that allegation?
 4 A They asked me -- we had a customer
 5 wanted to come and cancel a LoJack system, which
 6 was -- we included etching with the LoJack. That's
 7 how they wanted to package their product, the
 8 dealership and the managers. Customer bought a
 9 LoJack. As added incentive they got the etching
 10 with the LoJack, so it wasn't something they were
 11 charged separately with.
 12 Q Do you agree that you acknowledged
 13 that you agreed to deliver full payment
 14 compensation to the employer before you leave? Do
 15 you remember signing that and initialing that?
 16 A I'm sorry, sir. Say that again.
 17 Q "I agree the delivery of full payment
 18 of all compensation due me on or before 9/8/07,"
 19 and that you then initialed that; and that you also
 20 signed a document that said you have been removed
 21 from the premises of the employer on that day.
 22 A Yes. So they asked me to leave, and
 23 they gave me forms to sign. I signed it, and I
 24 asked to make sure I'm getting my money and my
 25 bonus, and they said yes.

1 Q And you didn't indicate anything
 2 about -- you didn't read the explanation for the
 3 reason for your separation which states, "Failed to
 4 follow proper procedures by selling etching to
 5 customers and not etching the vehicles. Employee
 6 stated this happens about 10 percent of the time.
 7 An audit found in nine customers contacted who
 8 purchased the etching, all nine did not receive the
 9 proper etching."
 10 You signed that document as the reason for
 11 your separation?
 12 A I did sign that document, correct; but
 13 again, you're not letting me finish. With all due
 14 respect, you're picking and choosing. I'm trying
 15 to explain the situation.
 16 Q What did I not read to you on that
 17 document of your separation, other than your name
 18 and address?
 19 A Correct. Again, what I'm trying to
 20 explain to you is we had a customer who wanted to
 21 cancel. I wrote a check request because I'm not
 22 allowed to give money. I went to the manager,
 23 asked them to sign it, and they refused to sign it.
 24 They came in and they said this customer
 25 states he didn't have his windows etched. I said,

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1 again, "As you guys know, none of the finance" --
 2 "none of the finance managers etch it." Again, I'm
 3 only there about a year. I etch it, and it's the
 4 salesperson's responsibility. I gave the
 5 salesperson the template to etch the car. The
 6 salesperson didn't etch the car. They said, "How
 7 many times has that happened?" I said, "About ten
 8 percent of the time. I give it to the salespeople
 9 to do because we're busy. There's only two of us,
 10 and you guys are selling a couple hundred cars a
 11 month."
 12 I'm the one that told them that. Again,
 13 you're looking at nine people. That was based on
 14 two finance people, so not all nine of them were
 15 the same; and if you read Michael, my partner, he
 16 had the exact same thing, but I did sign it. I did
 17 sign it and they did remove me, asked me to leave.
 18 They called me in. They said, "We've had a
 19 long relationship with each other. We have to end
 20 the relationship now. Drop your keys and have a
 21 nice day. Grab your stuff and leave." As we're
 22 leaving, they said, "Sign these forms," and I'm
 23 signing the form, and it did say on the one I told
 24 them ten percent of the times the salespeople do
 25 it, but obviously they didn't write the word

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1 "salespeople" in there, but I don't disagree that I
2 did sign that.
3 Q Did you also know that they had the
4 customer list down there, that they performed an
5 investigation with these customers? You don't
6 ignore that, do you, or disavow that?
7 MR. KOBIN: Objection to form.
8 MR. CONNELL: Strike the question.
9 A That was never --
10 Q Did you see the attached documents to
11 that separation agreement?
12 A Nope.
13 Q Okay. It confirms about nine
14 customers that were contacted, and all nine paid
15 for and didn't get it. That's what you signed
16 right here (indicating)?
17 A Okay.
18 Q And you acknowledge signing this
19 document as being the reason for your separation?
20 A Yes. I said that to you.
21 Q Did you think that that might affect
22 your future employment?
23 A No.
24 Q Do you believe that that charge in
25 effect states that you were being dishonest with

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1 customers?
2 A Again, that was something that was
3 sold with a product. It was something given.
4 Q That's not my question. If any other
5 employer ever asked about the reason for your
6 discharge, and I'm talking about your automobile
7 industry or any other industry, did you understand
8 the significance of being separated for that kind
9 of a reason?
10 A No.
11 Q You didn't?
12 A No.
13 Q Since August of '07, which is when you
14 were terminated from your employment, would you
15 agree that you were terminated from your employment
16 and it was not as a result of being restaffed?
17 A I -- no, I disagree with that. I
18 think it was restaffing.
19 Q Does that separation agreement on the
20 last day of your employment say anything about the
21 fact that they had restaffed your job and they
22 couldn't use you anymore?
23 MR. KOBIN: That's -- objection to
24 form. That's a separate question.
25 MR. CONNELL: I understand it is.

1 That's what separate questions are for.
2 MR. KOBIN: Okay.
3 Q Does this separation agreement, which
4 indicates that on that day you were asked to leave,
5 you were basically terminated and escorted out of
6 the premise, does that say anything about the
7 reason for your termination being the fact that
8 they restaffed the finance department and the sales
9 department?
10 A I'm there ten years. Why are they
11 going to say -- why are they going to say you left
12 on your own will and go collect unemployment?
13 Q The first reason you gave me in this
14 deposition for losing that job was because a new GM
15 was hired and he fired five to six employees,
16 including you.
17 A I was fired on a Tuesday. The GM was
18 hired on a Monday. GM was hired the day before
19 we -- he worked at a different Toyota dealership
20 and brought the whole staff in; and again you're
21 trying to isolate an incident. Again, it was
22 people that did the motor vehicle work that got
23 fired. It was people that answered the phone that
24 got fired. There's inventory managers --
25 Q I'm only talking about you, sir. I'm

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1 talking about you; and the reason that's on record
2 for the reason why you were fired from James Toyota
3 was not you were restaffed --
4 A Well, are they going to write that?
5 Q I don't know what they're going to do,
6 sir. I only asked whether or not you agreed to
7 that document and you signed it.
8 A I signed the form, but I don't believe
9 that's why I was fired. I believe I was fired
10 because they wanted a new crew to come in which was
11 the next day, get a whole -- staff with new people.
12 That's my impression. That was my impression.
13 Q Where have you been employed since
14 James Toyota?
15 A And getting back to that, to the
16 impression with the managers, one of the sales
17 managers came in next day and he winds up quitting
18 when he was looking for me and the other person.
19 Q Okay. Where did you --
20 A Multi Chevrolet in Union, New Jersey,
21 after that.
22 Q Now, prior to working for James
23 Toyota, did you ever work at Auto Village?
24 A That was in the summer. It was a
25 friend of mine and we -- just close friends, and we

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1 just worked --
 2 Q That was while you were in college?
 3 A Yes.
 4 Q And Hunterdon Medical in Flemington as
 5 a volunteer, that's when you told me when you were
 6 in college you would work some volunteer work at a
 7 hospital?
 8 A That's correct, weekends, days off,
 9 stuff like that.
 10 Q Your employer after James Toyota was
 11 what?
 12 A Multi Chevrolet in Union, New Jersey.
 13 Q And what's your job?
 14 A Finance manager.
 15 Q And when did you get hired?
 16 A It was beginning of September.
 17 Q September of '07?
 18 A Yes.
 19 Q And are you still there?
 20 A No.
 21 Q You worked there until when?
 22 A September through November of '07.
 23 Q And why did you leave?
 24 A Money, money reasons.
 25 Q Did you have a better offer somewhere

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1 else?
 2 A Yes.
 3 Q And where did you go?
 4 A Wayne Mazda.
 5 Q And you were hired as finance manager?
 6 A Yes, from November until present,
 7 November of '07 until present; and I was hired by
 8 the GSM that quit when he found out I got fired
 9 from James Toyota. He's the one that hired me, so
 10 he's my supervisor; and the reason why he hired me
 11 is, again, he knows the type of person I am.
 12 Q So you were hired by the general sales
 13 manager at Wayne Mazda who was the same guy who was
 14 at James Toyota?
 15 A We had two managers. This guy is
 16 named Louis --
 17 Q Try to answer my question. Were you
 18 hired by the general sales manager who was also
 19 your boss at James Toyota?
 20 A Yes.
 21 Q And his name is what?
 22 A Louis.
 23 Q L-O-U-I-S?
 24 A Yes, Stenger, S-T-E-N-G-E-R.
 25 Q And is this individual, Lou Stenger,

1 the guy who was replaced by that new GM that came
 2 in the day before you were fired?
 3 A Andrew was replaced. Louis quit the
 4 next day. We got fired on a Tuesday. That was his
 5 day off. Louis came in Wednesday morning and wound
 6 up quitting when he found out they fired us, again
 7 for no legitimate reasons, but obviously -- once he
 8 quit there, he got that job at Wayne Mazda. I had
 9 already started at the other place. He kept
 10 calling me to come and work with him, and
 11 eventually I took the job with him.
 12 Q Okay. How much more money did you get
 13 at Wayne Mazda than you had at Multi Chevrolet?
 14 You said it was a money reason why you moved.
 15 A Initially it was almost five, six
 16 thousand more a month.
 17 Q And therefore roughly about sixty to
 18 seventy thousand a year?
 19 A Correct.
 20 Q Are you on a bonus situation as well
 21 at Wayne Mazda?
 22 A Yes. We do have a bonus.
 23 Q And do you also get commissions for
 24 various things that you sell as a finance manager?
 25 A Basically reserving their interest

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1 rate, you get a percentage of that.
 2 Q And in two thousand -- do you have any
 3 idea how much you've made in 2008 or what your
 4 rough monthly income is?
 5 A 2008?
 6 Q This year.
 7 A This year?
 8 Q In other words, for the past nine
 9 months.
 10 A My year-to-date last time I looked was
 11 about a hundred eight thousand. We get paid every
 12 two weeks, so that was two weeks ago.
 13 Q Have you ever filed a lawsuit for any
 14 reason other than this lawsuit?
 15 A I have a tenant, tenant lawsuit. He
 16 didn't pay rent, so that's the only other lawsuit.
 17 I don't know whether it's considered a lawsuit.
 18 Q You sued a tenant for rent?
 19 A Yes.
 20 Q And in what court was that?
 21 A Hunterdon County.
 22 Q Was that in a Special Civil part,
 23 Landlord Tenant Court?
 24 A Yes, yes.
 25 Q And how much money did he owe you?

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1 A It was around \$40,000.
2 Q And has that case been resolved?
3 A Yes.
4 Q And did you get a judgment?
5 A I have a judgment against him, but I
6 haven't received any money. Yes, we do have a
7 judgment.
8 Q You're trying to collect, right?
9 A Yes.
10 Q Tough job, isn't it?
11 A Yeah.
12 Q That's the only other lawsuit you've
13 ever had?
14 A Yes.
15 Q Now, you say you have obviously a
16 rental property. What is that? Is that a house
17 that you rent out?
18 A Townhouse.
19 Q Townhouse?
20 A Yes.
21 Q And who is the owner?
22 A Me. I am.
23 Q And what's the address?
24 A 67 Elm Terrace, Flemington, New
25 Jersey, 08822.

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1 Q And when did you buy that house?
2 A 2003, roughly.
3 Q And you are the sole owner? Before
4 and since your marriage, you're still the sole
5 owner?
6 A Yes, from when I bought it in --
7 correct.
8 Q Is that a two-family, one-family?
9 A Just a townhouse, one, two floor.
10 Q One townhouse?
11 A One tenant, yes, two floor townhouse,
12 one tenant.
13 Q Do you own any other properties?
14 A Just my current address, the
15 2 Manchur, that's it.
16 Q Have you ever been sued for any
17 reason?
18 A No.
19 Q Have you ever been hospitalized in
20 your lifetime prior to this hospitalization
21 following this incident for any reason?
22 A Nothing major.
23 Q And have you been hospitalized at all
24 since this incident for any reason, other than, you
25 know, the emergency room treatment that you had?

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1 A No.
2 Q Prior to this incident, were you on
3 any type of medication?
4 A No.
5 Q And did you have any allergies or
6 anything of that nature?
7 A No.
8 Q Did you have a family doctor?
9 A Yes.
10 Q And how long was that doctor your
11 family doctor?
12 A Since we moved to Flemington, so '87,
13 '89.
14 Q And what's the doctor's name?
15 A Dennis Manchen, M-A-N-C-H-E-N.
16 Q And did you ever see that doctor
17 associated with any injuries that you received in
18 this incident?
19 A Yes.
20 Q What did he do for you?
21 A He sent me to take some X-rays; and he
22 just referred me to a couple other doctors,
23 specialists.
24 Q Did he know that you were X-rayed at
25 the emergency room?

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1 A I believe we told him, yes, but he
2 didn't know what they did exactly. I believe he
3 asked for the records, and then I don't recall if
4 he sent me for the physical X-rays or the
5 specialist sent me for the X-rays, but he referred
6 me to the X-rays.
7 Q To your knowledge, he didn't review
8 any of the X-rays that were taken at the hospital?
9 A I don't believe immediately, no,
10 because I had gone a day or two after. I don't
11 think he had gotten the records in enough time.
12 Q Do you know what X-rays that you
13 received as a result of the directions of
14 Dr. Manchur or one of the specialists, what parts
15 of your body?
16 A It was to my head area and my chest or
17 my torso, I guess you would say, to make it
18 simpler.
19 Q And were they negative?
20 A Yes. They didn't say anything.
21 Q Do you recall the X-rays being taken
22 of you in the hospital?
23 A I remember, yes.
24 Q And did anyone tell you that any of
25 those X-rays showed any positive findings?

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1 A The X-ray people didn't say anything.
 2 Q They didn't tell you what the results
 3 were? No doctor told you what the results were?
 4 A The doctor at the hospital might have,
 5 but the X-ray people didn't say anything.
 6 Q What about the doctor? Did the doctor
 7 say there was no evidence of fractures or
 8 dislocation to any part of your body?
 9 A Yes.
 10 Q Therefore, it was consistent with what
 11 was done thereafter, the X-rays?
 12 A Yes.
 13 Q While I've got it out, I might as well
 14 go through it.
 15 Do you remember having your left wrist
 16 X-rayed at the hospital?
 17 A Yes. I had to have my wrist up.
 18 Q Do you remember having your left
 19 shoulder X-rayed at the hospital?
 20 A Like I said, my head and torso.
 21 Q Just answer my question.
 22 A Yes --
 23 Q No, no. The head and torso was the
 24 X-rays that were sent by Dr. Manchur or some
 25 specialist. I'm talking about the X-rays taken of

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1 you at the hospital. I'm going to ask you whether
 2 or not you remember any of these X-rays being taken
 3 of you.
 4 A Yes.
 5 Q Do you remember an X-ray being taken
 6 of you at the hospital on October 1st, '04, of your
 7 left wrist?
 8 A Yes.
 9 Q Do you remember that the X-ray result
 10 was negative?
 11 A Yes.
 12 Q Do you remember having your left
 13 shoulder X-rayed in the hospital?
 14 A I believe they did like an MRI, so I
 15 don't remember it was just my shoulder. Again, to
 16 my recollection, it was my head, neck, shoulder.
 17 Q Just answer my questions. All right?
 18 MR. KOBIN: He's answering your
 19 questions.
 20 MR. CONNELL: He's talking about his
 21 head and that stuff.
 22 MR. KOBIN: But he's answering --
 23 BY MR. CONNELL:
 24 Q My question is was your left shoulder
 25 X-rayed? That's my question, not whether or not

1 you had an MRI of your left shoulder. I asked you
 2 was your left shoulder X-rayed in the hospital on
 3 October 1st, '04?
 4 MR. KOBIN: Look. He's answering the
 5 question. I know you may not like the way he's
 6 answering the question, but he's answering the
 7 question.
 8 MR. CONNELL: The question calls for a
 9 "Yes" or "No" answer, not about what happened to
 10 his head. If you want to have the answer read
 11 back, you'll see that it was unresponsive.
 12 In any event, we won't have to do that
 13 because I'm going to ask the question again.
 14 Q Was your left shoulder X-rayed in the
 15 emergency room?
 16 A I don't recall.
 17 Q You don't remember being told that the
 18 left X-ray shoulder was normal?
 19 A Again, I don't recall. I tried to
 20 explain, my head, neck, shoulders to my waist was
 21 all X-rayed. What specific parts, I don't recall.
 22 I want to tell you --
 23 Q Do you remember that your right
 24 shoulder was X-rayed?
 25 A I say yes, if they did my shoulders,

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1 yes. So I'd say yes to the first question too.
 2 Q Thank you. Do you recall anyone
 3 telling you that the right shoulder X-ray was
 4 negative for fracture or dislocation?
 5 A Correct. That's why I was released.
 6 Q Do you recall whether or not your ribs
 7 and chest were X-rayed on the right side?
 8 A Yes.
 9 Q Were you told that you had normal
 10 right ribs?
 11 A No fractures, yes.
 12 Q Did you have a CAT scan done of your
 13 brain while you were in the emergency room?
 14 A My head, yes.
 15 Q And were you told that there was no
 16 evidence of hemorrhage or mass?
 17 A Yes.
 18 Q Did you also have a CAT scan of your
 19 jaw and your face, your facial bones?
 20 A Yes.
 21 Q Did you have a CAT scan -- I'm sorry
 22 if I said "X-ray." I meant to say "CAT scan."
 23 Did you have a CAT scan of your facial
 24 bones?
 25 A Yes.

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1 Q And were you told that they were
2 negative?
3 A Yes.
4 Q Do you recall how long you were in the
5 emergency room?
6 A On October the 1st?
7 Q Yes.
8 A At Robert Wood Johnson or at Hunterdon
9 Medical Center?
10 Q Fair enough. I'm talking about Robert
11 Wood Johnson Hospital.
12 A Robert Wood Johnson?
13 Q That's where you were taken by the
14 police. Isn't that right? Is that right, Robert
15 Wood Johnson?
16 A Yes, yes, I'm sorry, Robert Wood
17 Johnson.
18 Q On October 1st, '04?
19 A To me it seemed it was about four
20 hours, three to four hours we were in the hospital.
21 Q Do you remember being let go
22 somewhere around 5:30 in the morning? Would that
23 be about right?
24 A Yes.
25 Q The incident happened around 2:30, so

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1 it would be about three hours, right?
2 A Yes.
3 Q Okay. And when did you go to
4 Hunterdon? Is it Hunterdon Regional?
5 A Hunterdon Medical Center.
6 Q Hunterdon Medical Center. When did
7 you go to Hunterdon Medical Center?
8 A I believe it was later on that same
9 day or it was the next day.
10 Q You don't remember which it was?
11 A I don't recall.
12 Q So it was either October 1st or
13 October the 2nd?
14 A October --
15 Q Why did you go to the medical center?
16 A I was in extreme pain and I didn't
17 feel that -- even though I was in the hospital, I
18 didn't feel I was being treated fairly, and I don't
19 believe -- I just wanted to basically get a second
20 opinion really because of the pain.
21 Q So when you were at Robert Wood
22 Johnson, you didn't think you were being treated
23 fairly by the medical personnel?
24 A Yes.
25 Q What makes you say that?

1 A Example. I asked them to go to the
2 bathroom. I was told to piss on myself by the
3 nurse. I asked for some water. They told me
4 there's no water; and one of the nurses was talking
5 to one of the sergeants and saying, "I'll talk to
6 the X-ray person to make sure it says what you want
7 it to say so he can get released."
8 Q So you asked for some water as well,
9 and the nurse said, "We have no water" or "You're
10 not getting any water"?
11 A Correct. "There is no water."
12 Q Was that before or after you were
13 examined by a physician in the hospital?
14 A The whole time from --
15 Q So you asked for water during the
16 three hours that you were there?
17 A A couple of times, yes.
18 Q And did you ever ask a doctor for
19 water?
20 A I asked the doctor.
21 Q And did the doctor refuse you water?
22 A Correct. And I asked to go to the
23 bathroom --
24 Q Did you ask why they were refusing you
25 water?

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1 A They basically said the police, the
2 police won't let me.
3 And again, like I said, I asked to go to the
4 bathroom. They said, "Piss on yourself."
5 Q Well, the nurse did, right?
6 A The nurse and the police, when they
7 were asking me to go to the bathroom; and when I
8 asked them the second time, their response was,
9 "Piss on yourself" and --
10 Q You were handcuffed to the gurney that
11 you were on?
12 A No, handcuffed behind my back.
13 Q So you were in custody from the
14 police, and the police were present during all
15 times that you were being examined as well?
16 A Yes, sir. They were the ones that
17 took me to the X-ray room.
18 Q And remained with you at all times
19 because you were under arrest?
20 A Yes, sir. Like I said, I heard the
21 nurse saying to them, "I'll talk to the X-ray guy
22 to see what you need him to say so he can be
23 released."
24 So based on that, I didn't feel that even
25 though I was in a hospital, I wasn't being treated

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1 fairly.
2 Q So you believe that the X-ray reports
3 are all false when you say they're negative?
4 A That's what I believed, and that's why
5 I went to the hospital, correct.
6 Q Even though you had a radiologist
7 reviewing these things, you thought that there may
8 have been some collusion there that would have had
9 someone say it was normal just so you could be
10 released and go to the jail?
11 A Again, the radiologist doesn't speak
12 to me. The nurse and the doctors, they say,
13 "You're free to go."
14 Q Do you understand the radiologist, who
15 never spoke to you, would have to look at the X-ray
16 films and do these reports? You understand that as
17 a smart person, right?
18 A I understand that, but they don't come
19 and speak to you. The doctor would speak to you.
20 Q You're saying that a radiologist who
21 never saw you would look at the films and put down
22 false findings on these X-ray reports because you
23 were under arrest from the police?
24 A Again, can you restate the question?
25 Q You know that a radiologist reviewed

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1 these X-ray films and put down the findings of what
2 he saw on the X-rays.
3 A Correct.
4 Q That person never had any contact with
5 you, correct?
6 A Just physically saw me, correct.
7 Q The radiologist I'm talking about.
8 A He saw me, obviously, to take the
9 pictures, the X-rays.
10 Q Are you saying that you were concerned
11 that that person would falsify X-ray reports
12 because you were under arrest by the police?
13 A Not him. When the doctor, whoever
14 gives the official okay to release you to go saying
15 you're okay, there's no broken ribs, no broken
16 that, whoever writes that report, I was afraid they
17 were the ones that would falsify the statement.
18 Q So the doctor, the physician in the
19 emergency room, you thought they may falsify the
20 statement to release you even if you had broken
21 bones?
22 A That's what I thought initially, yes.
23 Q That was what you thought?
24 A Yes, based upon what I heard the nurse
25 saying to the police officer.

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1 Q I'm not asking you really about the
2 nurse. I'm asking about the doctor that --
3 MR. KOBIN: He's saying what he
4 thought.
5 Q -- talking about did the doctor -- you
6 were concerned about the doctor that released you,
7 not the nurse; but you know that a doctor has to
8 release you back into custody of the police to
9 allow you to go to the jail. You know that that's
10 the case, correct?
11 A I'm sitting in the room. Yes, I
12 understand what you're saying.
13 Q If that's your understanding, I just
14 want to know whether or not it was your feeling
15 that it was the doctor who released you that may be
16 in collusion with the police, maybe in addition to
17 the nurse, but I'm asking you about the doctor.
18 You thought that he may have been in collusion with
19 the police, and that's why you really didn't trust
20 what happened to you at the Robert Wood Johnson
21 Hospital and you needed to go to the Hunterdon
22 Medical Center?
23 A Yes, based on what I heard from the
24 nurse saying to the police officers.
25 Q But you didn't hear the doctor say

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1 anything like that to the police officers?
2 A No. When I asked the doctor to give
3 me some water, do this, do that. He really wasn't
4 helping me in that regard. He says he really can't
5 do anything.
6 Q So this allegation that the documents
7 may have been falsified is really against the
8 emergency room physician, not the radiologist?
9 MR. KOBIN: Objection to the form.
10 Q Is that correct?
11 MR. KOBIN: Objection to the form.
12 MR. CONNELL: You can object to the
13 form.
14 A Again, we're going around in circles,
15 with all due respect.
16 I heard the nurse saying to the police,
17 "I'll speak to them." I don't know who "them" is,
18 doctor, nurses, X-ray physicians, "and I'll make
19 sure it says what you want it to say."
20 Q Do you think that this conspiracy
21 against you went as far as to the radiologist, that
22 this doctor who released you back to the custody of
23 the police also spoke to the radiologist and had
24 him falsify the X-ray findings?
25 MR. KOBIN: Objection to form.

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1 Q Is that your position?
2 MR. KOBIN: Just one second.
3 Objection to form.
4 You can answer the question.
5 MR. CONNELL: Fine.
6 Q You can answer the question. I'm
7 talking about what's in your mind, whether or not
8 it has any legitimacy or not, whether or not in
9 that emergency room did you believe that the
10 emergency room physician, who has to clear you back
11 to the police so that they can take you to jail,
12 was in collusion with the police and that he also
13 was in collusion with the radiologist to make sure
14 that the X-ray findings were negative so that you
15 could be released to the police?
16 Was that your belief?
17 A I don't know -- the radiologist -- but
18 yes, I believe that they all conspired to get me
19 released.
20 Q Okay.
21 A And then, like I said, when I got
22 released, I was still in extreme pain, so I went to
23 Hunterdon Medical Center, again really more for
24 pain because my body and the way my back and neck
25 and my whole body felt, and while I was there they

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1 took X-rays and so forth, so that's why I went to
2 the hospital, due to the extreme pain. I went to
3 the medical center.
4 MR. STONE: Billy, could you ask one
5 question or do you want me to ask it?
6 MR. CONNELL: Go ahead.
7 MR. STONE: Do you know if any of the
8 findings at the Hunterdon Medical Center were any
9 different than the findings at Robert Wood Johnson?
10 THE WITNESS: I believe they were the
11 same.
12 BY MR. CONNELL:
13 Q Do you know whether or not the doctor,
14 Dr. Manchur, your family physician, ever ultimately
15 got all the X-ray films from Robert Wood Johnson?
16 A He didn't get them from Robert Wood.
17 He got them from the medical center, Hunterdon
18 Medical Center.
19 Q That's not my question. Do you know
20 whether or not anything he would have told you --
21 he may have done things without your knowledge, but
22 anything as a result of what Dr. Manchur told you,
23 your family doctor, did he ever tell you, "By the
24 way, I got the X-rays from Robert Wood Johnson
25 Hospital" --

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1 A No, no.
2 Q -- "and I do agree with the
3 radiologist's findings"?
4 MR. KOBIN: See, that's an entirely
5 different question.
6 MR. CONNELL: No kidding. Of course
7 it's an entirely different question. That's the
8 question.
9 MR. KOBIN: You didn't get an answer
10 to the one before. Now you're saying that's the
11 question?
12 A No. The answer is no, he didn't tell
13 me anything about Robert Wood Johnson.
14 Q So you don't know whether or not he
15 ever reviewed those X-rays?
16 A Correct. I do not know.
17 Q And you don't know whether or not he
18 would have ever compared those X-rays with the
19 X-rays from Hunterdon?
20 A Correct. I do not know.
21 Q And do you know whether or not he ever
22 ultimately got the X-ray reports from Robert Wood
23 Johnson?
24 A I do not know.
25 Q Have you done any investigation

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1 yourself to determine whether or not the X-ray
2 findings of the radiologist in Robert Wood Johnson
3 were the same findings as what occurred in
4 Hunterdon Hospital?
5 A No, no.
6 Q But you do know that all the X-rays
7 that were taken in both places were negative?
8 A Yes.
9 Q Do you remember when you were in
10 custody in the Robert Wood Johnson Hospital that a
11 relative of yours came into the hospital?
12 A Yes.
13 Q And that relative's name was what?
14 A Sameh, S-A-M-E-H, Aboulatta.
15 Q Last name is spelled?
16 A A-B-O-U-L-A-T-T-A, A-B-O-U-L-A-T-T-A.
17 Q And how is he related?
18 A My brother-in-law.
19 My father also, Hany, H-A-N-Y, Kandil,
20 K-A-N-D-I-L.
21 Q Did they arrive together?
22 A Yes.
23 Q How old is Sameh?
24 A Approximately 33, 32, 33.
25 Q And your dad is how old?

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1 A Born in '46, so what --
 2 Q Sixty-two?
 3 A Yes.
 4 Q Was Sameh with you at the time of your
 5 arrest?
 6 A No.
 7 Q Was he with you at the bar?
 8 A No.
 9 Q And was your dad with you at the scene
 10 of the arrest or in the bar?
 11 A No.
 12 Q Do you have any idea how it is that
 13 they knew you were in the hospital?
 14 A One of the guys -- Sam's brother had
 15 called Sameh saying that I gotten arrested. He was
 16 home sleeping.
 17 So Sam woke up my dad, and him and my dad
 18 basically drove down to New Brunswick from
 19 Flemington. On the way there, Sam called his
 20 lawyer. Obviously it was late at night, so I
 21 believe he just got a message, and he called the
 22 police station. Again, this is what he's telling
 23 me. He called -- him and my father called the
 24 police station three or four times asking about me.
 25 They kept saying, "Nobody is here by that name,

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1 nobody is here by that name."
 2 Finally, on the third or fourth phone call,
 3 somebody else answered and said, "I believe he's in
 4 the hospital."
 5 Q So did they drive directly to the
 6 hospital?
 7 A Yes.
 8 Q And they were told that you were in
 9 Robert Wood Johnson Hospital as compared to another
 10 hospital, or they were told that based upon their
 11 arrival there?
 12 A I don't know. I don't want to give
 13 you bad info.
 14 Q Do you remember seeing what happened
 15 when Sameh and your father arrived at the hospital?
 16 A Yes.
 17 Q And were you on a gurney at that time?
 18 A My --
 19 Q A rolling bed?
 20 A Yes.
 21 Q Are you comfortable with the word
 22 "gurney"?
 23 A Yeah. I wasn't laying down though.
 24 My -- my stomach, like my torso was on the bed and
 25 my knees and body were on the floor, so I was just

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1 leaning. My chest was on the bed.
 2 Q Your upper body was leaning across
 3 with your lower body?
 4 A On the floor, I was --
 5 Q Were you kneeling on the floor?
 6 A Pretty much I was kneeling. I had
 7 asked for assistance to try to put me on the bed.
 8 There's a little like one of those guardrails I
 9 guess they call them so you don't fall over. It
 10 was up. Police and nurse didn't want to put it
 11 down.
 12 Obviously I was very exhausted, so I went
 13 from the back side where your feet would normally
 14 be, and I just pretty much put my chest on with my
 15 knees on the floor.
 16 Q As far as you know, do you have normal
 17 blood pressure?
 18 A Yes.
 19 Q And I'm not talking about at the time
 20 of this incident; but your history is as you've had
 21 blood pressure both before and after the incident,
 22 you've been normal?
 23 A Yes.
 24 Q And what is normal?
 25 A One-twenty.

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1 Q One-twenty over eighty, roughly?
 2 A Yes.
 3 Q And do you know what your blood
 4 pressure was when it was taken at the hospital?
 5 A No.
 6 Q Were you ever told what it was?
 7 A No.
 8 Q Did any doctor ever talk to you about
 9 what your blood pressure was when you were examined
 10 at the hospital?
 11 A I do not recall.
 12 Q If I was to tell you that your blood
 13 pressure was 122 over 78, would that be normal to
 14 you?
 15 A Yeah.
 16 Q Okay. And your pulse was 72. Do you
 17 normally have a low pulse rate?
 18 A I don't know.
 19 Q Do you know whether or not your pulse
 20 rate of 72 is normal?
 21 A I do not know, to be honest with you.
 22 Q Your temperature was 98.4. Would you
 23 say that that was normal?
 24 A Yes.
 25 MR. STONE: Did he answer the

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1 question?

2 MR. CONNELL: Yes. He said, "Yes."

3 Q How long would you say that you were
4 on the gurney in that position where you were
5 basically kneeling with your upper torso on the
6 bed?

7 And I assume you were handcuffed behind your
8 back?

9 A Yes.

10 Q How long would you say you were in
11 that position?

12 A Somewhere ten to fifteen minutes,
13 roughly.

14 Q And how long would you say that you
15 were in the hospital before they arrived?

16 A Probably -- I was laying on the gurney
17 when they walked in, so it was around --

18 Q Would you say it was about the ten to
19 fifteen minutes?

20 A Yes, in that same time frame.

21 Q What happened when Sammy walked in?

22 A I was --

23 Q Sammy and Hany.

24 A Yeah. I was laying on my torso.

25 Again, my head was to the side where everybody else

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1 was standing -- actually, there was nobody really
2 standing.

3 Sam walked up to me and he bent over like
4 this, saw my face, and he just said, "What did you
5 guys do to my brother? What did you guys do to my
6 brother?" and at that time it was Sergeant Oels --
7 again, Sam was facing me. Sergeant Oels grabbed
8 him by the shoulder, twisted him around, and pretty
9 much grabbed his left leg with his right hand
10 lifting him up and tried pushing him onto his back.

11 Q Okay. And do you have any
12 recollection of seeing your dad -- at the point
13 that you just described what Sammy did, do you
14 remember seeing your dad at the scene?

15 In other words, do you know that your dad
16 was there when Sammy came up and looked at your
17 face?

18 A No, I didn't see. My dad was standing
19 by the door.

20 Q Therefore, when Sam did this and the
21 officer grabbed Sam, you didn't know your dad was
22 present. Is that fair?

23 A Yes.

24 Q Did Sam ever place his hands on you?

25 A Nope.

1 Q Did you ever read the police report of
2 Sergeant Oels describing about what Sam did when he
3 entered the hospital?

4 A Yes. Um-hum.

5 MR. KOBIN: That's a "Yes"?

6 MR. CONNELL: Yes.

7 THE WITNESS: Yes.

8 Q That's a "Yes"?

9 A Yes.

10 Q The first -- and I'm looking now at
11 that police report of Sergeant Oels.

12 A Okay.

13 Q He states, "The door burst open and a
14 white male later identified as Sameh Aboulatta and
15 another man entered the room."

16 Did you hear any kind of a slamming of a
17 door or a door being thrown open at all while you
18 were lying down?

19 A The door was open the full time.

20 Q Therefore, you did not hear any kind
21 of a door being slammed open?

22 A Correct. The door was open. It
23 wasn't closed.

24 Q Is that because you were looking at
25 the doorway when they came in?

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1 A Yes. It was behind me.

2 Q Why didn't you see Hany walk in if you
3 were looking at the doorway?

4 A I understand the question. Sam is
5 standing next to my dad. I said my dad is by the
6 door, which means I saw the door because my dad was
7 by the door.

8 Q So you saw your dad when Sam came up
9 to you?

10 A Again, Sam -- my dad was in the room.

11 Q Did you know that --

12 A Sam was in front of me and my dad is
13 on an angle.

14 Q You may have misunderstood my
15 question.

16 When you described what Sam had done when he
17 approached your bed, you said that he looked down
18 at you; and did you know whether or not your dad
19 was there at the time, and you said, "No."

20 A Not standing next to Sam.

21 Q You said he was --

22 A Not standing next to Sam, but he was
23 in the room by the door.

24 Q You did know your dad was present when
25 Sam came up to you?

1 A Yes, inside the room.
2 Q It states that Mr. Aboulatta ran to
3 the gurney where you were located. Did he run to
4 the gurney?
5 A He could have.
6 Q Well, I thought you were looking at
7 the door that was open at the time that they came
8 in.
9 A Again, I was laying there. Somebody
10 walked up to me, went like this (indicating), and
11 he said, "What did you guys do to my brother? What
12 did you do to my brother?"
13 Q I'm trying to get an idea of where
14 your face was looking at the time you were lying on
15 this gurney with your knees on the ground. Your
16 upper torso was there. I presume your face was
17 either pointing to the right or pointing to the
18 left. You didn't have --
19 A It was pointing to the right, correct.
20 Q And was that towards the open door?
21 Were you looking at the open door?
22 A No, the door was by my feet.
23 Q Okay. So the door was behind you?
24 A So initially I'm looking -- I'm
25 looking straight as I was --

1 Q Forget about straight. Your feet and
2 your buttocks is basically facing the doorway that
3 is the entranceway, correct?
4 A Yes, yes.
5 Q And as you're looking to the right,
6 you couldn't see the door behind you. Is that fair
7 to say?
8 A Without looking down, correct, yes.
9 Q So therefore you couldn't see whether
10 or not the door was open, could you?
11 A If you're looking to the right and the
12 door is behind you, but the door was open
13 because --
14 Q How do you know the door was open if
15 you weren't able to look at it?
16 A Because if I sat down or laid down,
17 the door was open.
18 Q How do you know the door wasn't closed
19 in the ten or fifteen minutes --
20 A I would have heard the door close.
21 Q And you said your dad was back in the
22 opening of the door. You couldn't see that.
23 You're just assuming he was somewhere behind you
24 because you didn't see -- you only saw where Sam
25 was when he came up and looked in your face,

1 correct?
2 A Correct.
3 Q So did you know that your dad was
4 there when Sam looked at your face or not?
5 A Yes.
6 Q How did you know that?
7 A I heard his voice.
8 Q Did he say something to you before Sam
9 came up to you?
10 A No. He said, "Bassem is there.
11 That's Bassem."
12 Q And it stated that you were lying down
13 at the time. "It appeared that Aboulatta was in
14 the process of attacking Mr. Kandil. The
15 undersigned then approached Mr. Aboulatta as he was
16 grabbing Kandil and pulled him back."
17 You're stating that Mr. Sam Aboulatta never
18 grabbed you. Is that right?
19 A Correct.
20 Q Never touched you?
21 A Um-hum.
22 Q Never laid his body on top of yours,
23 correct?
24 A Correct, sir.
25 Q "Mr. Aboulatta" -- the report goes on

1 to state, "Aboulatta then spun around and shoved
2 the undersigned, screaming, 'What did you do, you
3 mother fucker?'"
4 Did he ever state that?
5 A Nope.
6 Q "He was then advised he was under
7 arrest. At that time, as I attempted to put
8 handcuffs on him, he began to struggle and had to
9 be taken to the floor with the aid of Officer
10 Bobadilla."
11 Did you observe that happening, that he was
12 taken to the floor?
13 A Yes.
14 Q By two officers?
15 A Yes. Well, I observed the sergeant
16 grabbing him, first lifting his leg. He grabbed
17 him, lifting his left leg up and pushing him back.
18 While he was doing that, the other officer jumped
19 on him, and they both brought him to the ground.
20 MR. KOBIN: Can we take a five-minute
21 break?
22 (At this point in the proceedings, a
23 brief recess is taken.)
24 BY MR. CONNELL:
25 Q Mr. Kandil, did you remain on the

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1 gurney in the position that you've described while
2 Mr. Aboulatta was being arrested and handcuffed?
3 A I recall jumping up and saying, "What
4 are you doing? What are you doing? He has nothing
5 to do with anything," so I stood up --
6 Q So you were --
7 A -- during the course -- I don't
8 remember exactly when, but I did stand up; and I
9 remember saying, "Please don't do anything to him."
10 Q And did they then put you back on the
11 gurney?
12 A Yes. One of the guys pushed me back
13 to the bed.
14 Q Did you hear Mr. Aboulatta demanding
15 medical treatment?
16 A Yes, after they arrested him and they
17 put him on a gurney, correct.
18 Q And do you recall that he was
19 screaming, Mr. Aboulatta?
20 A Just screaming from pain.
21 Q So you recall him screaming, but --
22 A I was going to say "screaming," just
23 saying, you know, "Help me. Help me. I'm
24 hurting."
25 Q And --

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1 A In a loud tone.
2 Q So you heard him screaming that he was
3 in pain?
4 A Yes.
5 Q And "I'm in pain. Can someone help
6 me" type of thing?
7 A Yes, yes.
8 Q Did you ever hear him scream that he
9 was shot in the neck?
10 A No.
11 Q Did you ever hear him scream as to why
12 the officer killed him, in those words?
13 A No. "You're choking me, trying to
14 kill me," he was saying.
15 Q You heard him doing something other
16 than screaming about pain. You did hear him say
17 other things in his screams?
18 A Correct.
19 Q And the thing that you heard him
20 scream was that "You're trying to kill me by
21 choking me?"
22 A When he was on the floor -- when he
23 was on the floor, the sergeant was stepping on his
24 neck. So he's on the floor. Now they're standing
25 up. He has his foot on his neck, and he was

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1 screaming, "You're choking me. You're choking me.
2 You're going to kill me."
3 Q Did they --
4 A They stand him up to bring him to
5 another gurney or bed; and while he was there, to
6 my recollection he was crying and screaming from
7 pain; and if I recall correctly, he did say, "You
8 guys were trying to kill me," but nothing about
9 "shooting me in the neck."
10 Q And nothing about "why I killed him"?
11 A Not "why I killed him."
12 Q Or why the officer killed him, because
13 he obviously wasn't killed?
14 A No. Like it just might have been a
15 misinterpretation. He was trying to say, "You're
16 trying to kill me."
17 Q Does Sam speak with any broken
18 English?
19 A No.
20 Q So he speaks perfect English?
21 A Yes.
22 Q Did you believe that he was incoherent
23 when he was making these screams?
24 A Meaning he can't understand?
25 Q Exactly.

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1 A No, he was fine.
2 Q You understood everything that he
3 said?
4 A Yes.
5 Q And did he appear to be intoxicated to
6 you?
7 A No.
8 Q Do you know which officer was stepping
9 on his neck?
10 A Sergeant Oels.
11 Q And you saw that from your position
12 standing up or on the gurney?
13 A Yes.
14 Q Which one?
15 A Both. Well, it was standing up, at
16 that point when I stood up. He was already on the
17 floor.
18 Q Was he stepping on the front of his
19 neck or the back of his neck?
20 A I would say the left side.
21 Q When you say "stepping," I assume you
22 mean that he actually had his foot on the side of
23 his neck?
24 A Yes.
25 Q Did you see the other officer in

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1 contact with him at that time?

2 A Well, the sergeant and the other
3 officer basically brought him to the ground. They
4 cuffed him; and, like I said, the sergeant was
5 already standing up. He -- he had his foot on his
6 neck, and I don't recall the officer got up because
7 the -- basically one of them pushed me back onto
8 the bed.

9 Q Was it only those two officers that
10 were there at the time?

11 A There was a couple security guards. I
12 want to say there was three officers. There was
13 two when that incident happened, and then another
14 one came. I don't know if he came before or after.
15 Again, there was also some security, so I don't
16 remember what time, timeframe-wise what time these
17 guys all came in.

18 Q But I'm talking about New Brunswick
19 police officers. You believe at the time that
20 Aboulatta came in, Sergeant Oels and Bobadilla were
21 the ones that were present, and then you also had
22 security officers from the hospital?

23 A Yes, but there could have been another
24 officer. Like I said, they were going in and out,
25 so I don't remember if there was three or two at

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1 that time.

2 Q Do you remember if you ever saw
3 Officer Yurkovic or Officer Oels, III, in the
4 hospital?

5 A Yes.

6 Q While you were there?

7 A Yes.

8 Q And was that before or after Sam came?

9 A After, to my recollection. Well, no.
10 Actually, Oels brought me -- Oels and the sergeant
11 brought me to the hospital and --

12 Q How many officers were in the
13 ambulance?

14 A Just Oels, the -- not the sergeant,
15 the other one.

16 Q The younger Oels?

17 A Yes.

18 Q And he was in the ambulance with you?

19 A Yes.

20 Q And when you got to the hospital, do
21 you know who escorted you in?

22 A Oels, the sergeant; and they brought
23 me in some door, some back door.

24 Q When you say "Oels, the sergeant," do
25 you mean the younger Oels and Sergeant Oels

1 escorted you in?

2 A Yes.

3 Q Did you see Officer Yurkovic at the
4 point that you were being escorted in?

5 A No, he wasn't there. He came later.

6 Q But did you see Officer Yurkovic in
7 the hospital at some point?

8 A Yes.

9 Q Was he involved at all in the Sam
10 Aboulatta incident?

11 A No.

12 Q And was William Oels, III, the younger
13 officer, ever involved in the Sam Aboulatta
14 incident?

15 A I don't recall. No, I don't believe,
16 no.

17 Q So the only officers you actually
18 remember having any contact with Sam was Sergeant
19 Oels and Officer Bobadilla?

20 A I don't know the other officer. I
21 remember Oels because I interacted with him
22 earlier, so I knew him 100 percent.

23 Q Is Sam's wife named Halla, H-A-L-L-A?

24 A Yes, sir.

25 Q And who is your relative? You said

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1 Sam is your brother-in-law. How is he related as
2 an in-law?

3 A Halla is my sister. That's his wife.

4 Q Let me -- I haven't asked you this.
5 What are your siblings? I mean --

6 A Just one sister, Halla.

7 Q Halla?

8 A Yes.

9 MR. KOBIN: You're starting to slip a
10 little bit. You have to let him get the whole
11 thing. Even though they're simple questions, you
12 know where he's going, it's --

13 THE WITNESS: I apologize.

14 Q You're doing a good job so far as far
15 as that goes.

16 Your mom's name is what?

17 A Shadia.

18 Q S-H-A-B-I-A?

19 A No, S-H-A-D-I-A; same last name,
20 Kandil.

21 Q And were you aware that Sam also had
22 filed a lawsuit in the same complaint that
23 Mr. Kobin was representing you, that Sam and his
24 wife also filed suit originally?

25 A Yes.

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1 Q Were you aware of that?
 2 A Yes.
 3 Q And were you also aware that they
 4 decided to discontinue the suit?
 5 A Yes.
 6 Q Do you know why they decided to
 7 discontinue the suit?
 8 A My brother-in-law was afraid -- he
 9 owns a restaurant and it's not too far from there,
 10 so he was afraid just reputation-wise for his
 11 restaurant he would have issues; and he was really
 12 afraid for some reason he'd wind up losing his
 13 liquor license that he had in his restaurant, so he
 14 didn't want to have anything on his -- any issues
 15 with his record or --
 16 Q What's the name of his restaurant?
 17 A Mia Sorella, M-I-A S-O-R-E-L-L-A.
 18 Q And what's the address of the
 19 restaurant?
 20 A It's Manville, New Jersey.
 21 Q Do you know the street?
 22 A Manville. It's Main Street, if I'm
 23 correct.
 24 Q Okay. What kind of a restaurant is
 25 that?

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1 A Italian.
 2 Q And do you have any idea how far
 3 Manville is from New Brunswick?
 4 A Fifteen minutes.
 5 Q And he had mentioned to you that he
 6 thought that his liquor license was in jeopardy
 7 because of the incident with the New Brunswick
 8 police?
 9 A He was afraid that New Brunswick
 10 police -- basically he was afraid that they could
 11 somehow cause problems for him at his restaurant
 12 and hence cause problems for him losing his liquor
 13 license. He didn't want to deal with the fear of
 14 losing his livelihood and so forth if he proceeded
 15 with the court hearings and all that.
 16 Q Did you have any lengthy discussions
 17 with him or any discussions at all, "Geez, that
 18 doesn't seem correct" to you? Did you debate that
 19 issue with him at all?
 20 A I do not recall.
 21 Q Well, did you agree that he should
 22 dismiss his lawsuit?
 23 A No. I never agreed to it.
 24 Q I didn't ask you whether or not you
 25 agreed. Did you agree to the fact that -- that's

1 what he was doing. I'm not asking whether or not
 2 he asked for your approval; but did you agree with
 3 the decision that he made was -- dismissing his
 4 lawsuit because he was concerned about his
 5 business?
 6 A No, I did not agree with him. We
 7 spoke about it.
 8 Q It's probably my question. Let me see
 9 if I can rephrase it.
 10 When he told you about the reason why he
 11 wanted to dismiss his lawsuit, he was concerned
 12 about the fallout in his business --
 13 A Correct.
 14 Q -- if he continued with the lawsuit.
 15 Fair?
 16 A Yes.
 17 Q Did you have any discussion with him
 18 when he gave you those reasons because Manville is
 19 not in New Brunswick and that anything of that
 20 nature -- that he really shouldn't have any fear
 21 about the New Brunswick -- the City of New
 22 Brunswick Police Department having any effect on
 23 his ability to maintain a liquor license in a
 24 different town?
 25 Did you have any kind of those discussions

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1 with him?
 2 A Yes.
 3 Q And what were -- did you try to
 4 convince him that his fears were unwarranted, his
 5 fears about his business were unwarranted, that he
 6 should continue in the suit with you?
 7 A Yes.
 8 Q And what was his response?
 9 A Same thing, that he was afraid,
 10 basically the same response.
 11 Q So you did try to convince him not to
 12 dismiss the suit, but you were unsuccessful?
 13 A Pretty much telling him they're two
 14 separate things and basically legal stuff, so he
 15 can't really get involved with the --
 16 Q Well, is it fair to say that you tried
 17 to convince him not to dismiss, but it's his case
 18 and he decided to do it anyway?
 19 A Yes. We did have a brief discussion,
 20 not lengthy discussion, but yes.
 21 Q Do you know whether or not his wife at
 22 all was involved in that decision, his decision?
 23 A No.
 24 Q You don't know?
 25 A No.

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1 Q Do you know that she was not involved?

2 A I do not know. That's their
3 personal --

4 Q Understood. So in other words, you're
5 not privy to anything that the wife may have added
6 to this discussion?

7 A Correct.

8 Q Did you ever talk to his wife about
9 that?

10 A I don't believe so.

11 Q Does the wife work with him at the
12 restaurant?

13 A Not really, no. Sometimes if he's --
14 they have a party or something she might assist,
15 but she really doesn't go there.

16 Q She's not a full-time employee?

17 A That's what I'm trying to say.

18 Q You thought that this reaction of the
19 New Brunswick Police Department was based upon
20 racial bias. Isn't that right?

21 A Yes.

22 Q You have not included that in the
23 lawsuit. Do you understand that?

24 A Um-hum.

25 Q Is that a "Yes"?

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1 A Yes.

2 Q And what's the reason why you haven't
3 maintained your initial belief that this was
4 racially motivated in your lawsuit?

5 A When they asked me for my license,
6 they read my name, my name Bassem. It's not Chris,
7 Bob or John. Bassem, 99 percent of the people is
8 associated with Arabic, especially after 9/11; and
9 I believe once my name was read, that's when
10 everything started. They possibly thought I was an
11 immigrant or something, and that's when all the
12 events started to unfold from there.

13 Q So this was all in your mind that
14 based upon your name you assumed that this would
15 have been racially motivated?

16 MR. KOBIN: Objection to form, but
17 that's fine --

18 Q Isn't that correct?

19 A Yes.

20 Q Because nothing was said to you that
21 would have verbalized a racial bias. Isn't that
22 correct?

23 A Yes.

24 Q But who is it that decided to call in
25 the press the morning of your arrest?

1 A One of the witnesses or one of the
2 guys. One of the witnesses. I don't know who it
3 was.

4 Q You don't know who it was?

5 A No.

6 Q You never found out who it was that
7 brought the press down into the police department
8 and to the prosecutor's office?

9 A No, I never found out.

10 Q Even after the incident, you never
11 found out?

12 A I was preoccupied with what was going
13 to happen to me.

14 Q You were preoccupied with it being a
15 racially biased incident?

16 A I believe that's how it started.

17 Q Why wouldn't you be interested in
18 knowing who called the police about this?

19 A It really didn't serve me any purpose
20 at that time.

21 Q Well, did you have any discussion with
22 anybody in your group up to the point that the
23 press arrived to call the press to come down there?

24 A No. I was in jail.

25 Q How would the person -- if this was

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1 all in your mind, if this was racially biased based
2 upon your name, do you have any idea why anybody
3 else would have thought that this was racially
4 biased if you hadn't spoken to them and were
5 talking about your arrest?

6 A No. No comments were made, no racial
7 slurs were given.

8 Q So you have no idea why someone would
9 have called the police among your group to say that
10 this was a racially biased incident and to get the
11 press involved? You don't know why that happened?

12 A I know the press was there. I assumed
13 the press was there because we wrongfully got
14 arrested for no reason, so they wanted to show that
15 "Hey, this guy got arrested for no reason" and they
16 wanted something to be done about it.

17 Q Do you know if the press arrived
18 because it was alleged to be a racially biased
19 incident?

20 A I do not know that.

21 Q You don't know that?

22 A Correct.

23 Q And you never asked any questions of
24 anybody in your group who may have called the press
25 down there to find out why they called them down

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1 there?
 2 A I did not ask anybody, correct.
 3 MR. STONE: May I ask one question?
 4 Do you know if your parents called the
 5 press?
 6 THE WITNESS: I do not know.
 7 MR. STONE: Did you ever ask them?
 8 THE WITNESS: Somebody called; and to
 9 be honest with you, I don't know who it was.
 10 MR. STONE: Did you ever discuss with
 11 your parents whether they called the press?
 12 THE WITNESS: No.
 13 BY MR. CONNELL:
 14 Q The report of the prosecutor's office
 15 that talks about this bias investigation, it had to
 16 be implemented and had to be investigated as a
 17 result of this news media getting involved and the
 18 allegation of you being mistreated because you were
 19 an Arab American. Did --
 20 MR. KOBIN: Objection. Objection to
 21 form, but go ahead.
 22 Q It states that -- that investigation
 23 that was undertaken by the prosecutor's office
 24 states that "The defendant's family called the news
 25 media and complained that their relatives were

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1 arrested and assaulted by the New Brunswick Police
 2 Department. They allege the mistreatment was
 3 because they were Arab American."
 4 That's what the synopsis states before the
 5 investigation -- the body of the investigation
 6 report starts. What I'm asking you is based
 7 upon -- did you ever read this report, by the way,
 8 up to the present time?
 9 A I don't recall. I don't know which
 10 one it is. There were so many.
 11 Q Well, it's been supplied in discovery
 12 and your --
 13 A There were so many forms. There's
 14 thousands of pages.
 15 Q In any event, when the report states
 16 the defendant's family called the news media, do
 17 you have any idea who that was?
 18 A No. Again, no, I do not know who it
 19 was.
 20 Q And therefore you don't know whether
 21 or not it was somebody who may have been at the
 22 scene or whether or not it was somebody from your
 23 family that did not witness the arrest, correct?
 24 A Correct.
 25 Q Did you ever tell anybody among your

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1 group while you were at the scene, up to the point
 2 that you were taken away by the police and you
 3 didn't see anybody else until you got to the
 4 hospital among your family, did you ever say to
 5 anybody, "Call the news media" or "Call my family
 6 because this is all because it's racially
 7 motivated"?
 8 A I don't recall saying that.
 9 Q Do you remember meeting on
 10 October 1st, 2004, with Investigator John Rodriguez
 11 of the Middlesex County Prosecutor's Office? This
 12 would have been the morning of the incident.
 13 A Yes.
 14 Q And do you remember what time it was?
 15 A May I take my jacket off?
 16 Q Sure. Of course. You can take your
 17 tie off too, if you want.
 18 A I was just getting hot.
 19 It was after we went back, I would say nine,
 20 ten in the morning roughly.
 21 Q So if the report states 10:35, that
 22 would be about the right time?
 23 A Yes.
 24 Q And the investigator states that he
 25 met with you at that time, and you gave him your

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1 date of birth, your address.
 2 Do you remember whether Director Joseph
 3 Catanese of the police department was present in
 4 the room?
 5 A Yes, there was a gentleman with them,
 6 correct.
 7 Q Did you know that he was the director
 8 of police for the New Brunswick Police Department?
 9 A I don't recall initially, but I
 10 remember he gave me his card when I was leaving, to
 11 my recollection.
 12 Q So you didn't know who that person was
 13 until he gave you the card. He wasn't identified
 14 to you as to who he was when he was in the room?
 15 A When I got out of the cell, they said,
 16 "Your lawyer is outside. We're going to release
 17 you to him. We need to speak to you. We're on
 18 your side," this and that.
 19 They took me into a room, and they were both
 20 speaking to me. Again, I'm in shock and I was --
 21 from being arrested, but I do recall getting a
 22 card. I asked him who you were, and he did tell
 23 me, "I'm the director."
 24 Q And the meeting did happen in New
 25 Brunswick headquarters, correct?

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1 A It was right in their police station,
2 yes, sir.
3 Q Do you know whether or not Director
4 Catanese was in uniform or in plainclothes or in a
5 suit and tie or anything like that?
6 A I believe they were both regular
7 clothes. I don't remember suit and tie. It wasn't
8 uniform though.
9 Q Was anyone else present in the room
10 with you other than Director Catanese, Investigator
11 Rodriguez and you?
12 A No.
13 Q Did the investigator state to you that
14 there was an inquiry that was being made into the
15 incident between you and the New Brunswick Police
16 Department and that you were further advised that
17 you had a right to talk or not if you did not wish
18 to do so?
19 Do you remember him saying that to you
20 before you began to talk?
21 A I remember him saying there was an
22 investigation. I don't remember him saying, "You
23 didn't have to talk." I don't remember that, to be
24 honest with you.
25 Q Do you remember you stating to the

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1 investigator that you would relate what had
2 transpired on the morning of October 1st, '04, at
3 approximately two to 2:30 a.m.?
4 A Yes.
5 Q Okay. You said that you would
6 voluntarily speak with the investigator?
7 A Yeah, yeah. They didn't force me.
8 Q You then stated that you were partying
9 at the Olde Queens Bar on Somerset Avenue with some
10 friends, family and your wife?
11 A Um-hum.
12 Q Do you remember saying that?
13 A I didn't use the word "partying," but
14 yes, I did say we were at the Olde Queens Tavern.
15 Q Just so the record is clear, the word
16 actually states "parting." "He indicates that he
17 was parting at Olde Queens Bar with some friends,
18 family and his wife," so I presumed that was a
19 typographical error.
20 What were you doing at the Olde Queens Bar?
21 A We stopped by to meet one or two of
22 our friends.
23 Q And tell me who was at the Olde Queens
24 Bar with you.
25 Let's talk about family first. What family

1 members were there?
2 A My wife, obviously, Flora.
3 Q Go ahead.
4 A My brother-in-law's brothers. One is
5 Abdel Halim, A-B-D-E-L, H-A-L-I-M, Aboulatta, A --
6 Q Is that his last name, Aboulatta?
7 A Yes, yes.
8 And the other one is Abdel Aziz, again,
9 A-B-D-E-L, A-Z-I-Z. I'm butchering the names.
10 Abdel Aziz Aboulatta, A-B-O-U-L-A-T-T-A.
11 Q And are the two Abdels brothers?
12 A Yes. They're Sam's brothers, Sameh's
13 brothers.
14 Q Okay. So the only way that you
15 differentiate them in -- by the way, are they all
16 Egyptian?
17 A Yes.
18 Q And the way that the Egyptians would
19 differentiate between the brothers' names would be
20 the middle name?
21 A Yeah. We call one Zizo and one Halim.
22 Q And Zizo is the derivative of Aziz?
23 A Yes.
24 Q And who else was with you?
25 A Mahmoud, M-A-H-M-O-U-D, Elsakahwy. I

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1 believe it's E-L-S --
2 Q Is that one word?
3 A No. His first name is Mahmoud.
4 Q And his last name?
5 A Elsakahwy.
6 Q Spell it.
7 A Elsakahwy, E-L-S-H-A-R-A-W-I.
8 MR. STONE: Is it capital "E," capital
9 "S," or is it all one word? That's what he meant.
10 THE WITNESS: I believe he spells it
11 all one word.
12 BY MR. CONNELL:
13 Q Who else was there?
14 A Mohamed Romain Farzaie is his name, so
15 Mohamed, Romain, R-O-M-A-I-N, Farzaie,
16 F-A-R-Z-A-I-E; and then Robin, Robin, last name I
17 believe is K-O-L-C-O-T-E, Kolcote.
18 Q K-O-L --
19 A C-O-T-E.
20 Q Kolcote?
21 A Yeah.
22 Q Now, is Mahmoud Elsakahwy, is he a
23 relation?
24 A No, just close friend.
25 Q And Mohamed Romain Farzaie?

1 A Also friend.
2 Q And Robin Kolcote?
3 A Friend also. I'm sorry.
4 Q And she is a girlfriend of one of
5 those gentlemen?
6 A No, just my wife's -- my wife's
7 girlfriend.
8 Q Were there only two females in the
9 group?
10 A Yes.
11 Q What was the occasion of getting
12 together? Do you remember?
13 A Abdel Halim had just come from Egypt a
14 few nights before and we were -- just wanted to
15 take him out. He just came to the U.S. We really
16 were just taking him out to, you know.
17 Q Did he live in the U.S. or was he
18 visiting?
19 A No, he's here legally. He just came
20 over from overseas. He got his visa and all his
21 paperwork to come live in the United States.
22 Q So this was his arrival for some
23 lengthy period of time that you were celebrating?
24 A Yes. He just came to the U.S. for his
25 first time to live here from overseas.

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1 Q All right. And what time did you get
2 to the Olde Queens Bar?
3 A I believe it was around twelve,
4 twelve-thirtyish.
5 Q And where were you previous to that?
6 A Home.
7 Q Is it normal that your group goes out
8 at midnight to begin to party?
9 A I finish work late. I usually finish
10 anywhere between 9:30, ten. Obviously, we go home,
11 shower, change.
12 Q Do you remember what day of the week
13 that this was?
14 A I recall it was Wednesday night into
15 Thursday.
16 Q So you worked that Wednesday night
17 until 9 p.m.?
18 A Yes.
19 I apologize, sir. It was Thursday because I
20 had off the night before, so this was --
21 Q So this was Thursday night, Friday
22 morning?
23 A Correct.
24 Q And you worked until about 9 p.m., and
25 this would be at James Toyota?

1 A Yes.
2 Q And is that the normal time for you to
3 work until?
4 A Yeah. The hours are nine to nine, and
5 we don't leave at nine. We leave when the
6 customers are finished and done, so it could be
7 10:30, eleven, depending, no actual time.
8 Q If you got somebody there looking to
9 buy a car, you're not going to throw them out
10 obviously?
11 A Yes.
12 Q Do you remember this night about what
13 time you got home?
14 A I don't remember what time I got home
15 exactly.
16 Q Well, how long did it take you to get
17 home from James Toyota?
18 A I live about five minutes away, so I
19 believe 9:30, 9:30, ten say we left. Went home,
20 showered, dressed, and then met up -- I believe my
21 wife was at my in-laws', so I went and picked up my
22 wife at my in-laws' house, which was probably five,
23 ten minutes away from my house also.
24 Q Did you rendezvous with everybody, you
25 and your wife, or did you go there in one car?

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1 A All those people I mentioned, we were
2 all in my car.
3 Q All of those people were in your car?
4 A Yes. I have a Lincoln Navigator, so
5 it's an eight-passenger vehicle. My recollection,
6 we picked up Robin. We all met at Zizo and Halim's
7 house and we picked up the rest, the other guys.
8 Q You had all eight seats filled?
9 A Yeah.
10 MR. STONE: What car dealership were
11 you working for at that time?
12 THE WITNESS: James Toyota.
13 MR. STONE: And you were driving a
14 Lincoln?
15 THE WITNESS: It was a trade-in.
16 BY MR. CONNELL:
17 Q Okay. So therefore there was really
18 only one vehicle for the whole group the whole
19 night, and therefore you would have to also leave
20 together unless there's -- somebody made
21 alternative arrangements to get in a cab or
22 something?
23 A Correct.
24 Q Did anyone else meet with this group
25 to party? We'll use that word, for lack of a

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1 better word. To celebrate. Okay?

2 A We got there. We met Austin, which

3 was a friend of mine, also co-worker. Last name is

4 Shaw, S-H-A-W, and later on --

5 Q He's a friend from James Toyota?

6 A Yes.

7 Q And was that a coincidence that you

8 met up with him, or was that by design that you

9 were going to meet with your family to celebrate

10 this, and you invited him to come along?

11 A I believe it was by design; and we

12 were going to go to a different place in New

13 Brunswick, and if I remember correctly Austin had

14 called saying, "Why don't you guys meet me here?

15 I'm here with some people."

16 Q It was his idea to go to the Olde

17 Queens Tavern?

18 A Yes. I believe it was Mohamed

19 Romain -- my recollection, Austin called Romain;

20 and we were on our way to a different place near

21 the courthouse, and he phoned, said to him, "Why

22 don't you guys meet me here?" and we wind up going

23 there.

24 Q Was this the first place that you went

25 to that night, Olde Queens Bar?

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1 A Yes.

2 Q And had you ever been in the Olde

3 Queens Bar before?

4 A No.

5 Q Had you ever gone to any bars in New

6 Brunswick before this night?

7 A Not bars, some clubs. I don't know

8 their names. I go with my friends.

9 Q How often would you go to clubs in New

10 Brunswick before you were in New Brunswick this

11 night?

12 A Well, I went to school in New

13 Brunswick, so once or twice maybe during college

14 years we went to a couple of the clubs.

15 Q In your four years of college and

16 your year or your semester and a half of being in a

17 master's program, you only went to a bar in New

18 Brunswick on one or two occasions?

19 A Yes. I lived home, so I commuted to

20 school. I didn't live on the campus.

21 Q But notwithstanding that, there was

22 never occasion only except for a couple of times

23 that you would have frequented any of the bars in

24 that whole strip --

25 A In New Brunswick, yes.

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1 Q Is that fair to say?

2 A Yes.

3 Q Now, did you have anything to drink

4 that night in the Olde Queens Bar?

5 A I remember having the balance of one

6 of my friend's drinks.

7 Q And which friend was this?

8 A I believe it was Austin.

9 Q Do you know what he was drinking?

10 A I don't recall. Gin and tonic maybe.

11 I don't recall.

12 Q Well, do you have a habit of drinking

13 from other people's drinks?

14 A I generally don't drink.

15 Q Okay. Do you have a habit of drinking

16 from anyone else's drinks, whether or not it be

17 alcohol or otherwise?

18 A Sometimes, yes.

19 Q You do? Okay. And did you know that

20 his drink was alcoholic?

21 A Yes.

22 Q And why was it that you decided to

23 have the remainder of his drink?

24 A I don't know. We were getting ready

25 to leave, and he said, "Finish my drink." I

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1 basically took a shot of it and just drank it,

2 remainder of it, and left.

3 Q So Austin offered you the remainder of

4 his drink. Is that the way it happened?

5 A Yes.

6 Q And did you ask him, "What is it?"

7 A I don't remember.

8 Q Do you drink alcohol?

9 A Not really, no.

10 Q What does that mean, "not really"?

11 A I have drunk alcohol before. I'm

12 not -- I really don't drink it.

13 Q Well, do you have any idea whether or

14 not you would be repulsed from having one type of

15 liquor as compared to another type of liquor,

16 based upon your experience?

17 A What do you mean by "repulsed"? I'm

18 sorry.

19 Q In other words, you hate the taste of

20 it, you hate the effect of it, you know, anything

21 that would say, "I'm never going to drink one of

22 those drinks ever again because it tastes so

23 terrible"?

24 A No.

25 Q So are you saying that you had no idea

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1 what this gin and tonic was going to taste like
 2 until you tasted it?
 3 A Correct.
 4 Q This is the first time you ever had a
 5 gin and tonic?
 6 A I've tried beer.
 7 Q Listen to my question. Is this the
 8 first time you ever tried a gin and tonic?
 9 A Yes.
 10 Q Do you know how much of the drink that
 11 you finished?
 12 A It was probably two ounces, three
 13 ounces.
 14 Q Do you know how big the glass was?
 15 A Regular six- or eight-ounce glass, I
 16 guess it was, regular like standard cup, whatever
 17 size that is.
 18 Q And therefore it would have been
 19 approximately a third of the way --
 20 A Yes, there was some left on the
 21 bottom, correct.
 22 Q But certainly not half. You had --
 23 less than half of the drink was left?
 24 A Yes.
 25 Q Now, is this -- your decision not to

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1 drink alcohol, is that religiously based?
 2 A Yes.
 3 Q And what is your religion?
 4 A Muslim.
 5 Q And is it against the Muslim religion
 6 to drink alcohol?
 7 A Yes.
 8 Q And yet you drank it on this
 9 particular night, even though it was only the
 10 finish of that drink?
 11 A Yes, sir, correct.
 12 Q And why did you do that if it's
 13 against your religion to drink alcohol?
 14 A I just -- like I said, he offered it
 15 to me, and I took it so we can leave.
 16 Q And in the other times that you went
 17 to these bars, even though it was very infrequent
 18 during your five years of being in the City of New
 19 Brunswick as a Rutgers student, you think that you
 20 only were in bars on one or two occasions. Is that
 21 fair to say?
 22 A Yeah. We go to clubs, but yes.
 23 Q The clubs which have alcohol in them?
 24 A Yes, correct.
 25 Q Did you ever drink alcohol in all the

1 years that you were in college?
 2 A Like I say, I've tried beer.
 3 Q What about other types of alcohol,
 4 anything other than beer?
 5 A No.
 6 Q And how often would you drink beer
 7 when you went to the bars or clubs when you were a
 8 student?
 9 A Like I said, once or twice, really
 10 just to try it.
 11 Q And did you like it?
 12 A Not really.
 13 Q In family functions, is it fair to say
 14 that alcohol is not served and no one drinks it at
 15 your family functions?
 16 A Correct.
 17 Q Is it fair to say that you don't have
 18 alcohol in your home?
 19 A Yes.
 20 Q And does your wife drink?
 21 A No.
 22 Q Did she drink before she met you?
 23 A I don't know.
 24 Q You never discussed that with her?
 25 A Correct. I go by my religion and

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1 stuff, and she converted to my religion.
 2 Q Therefore, her reasons for not
 3 drinking alcohol would be the same as yours, at
 4 least since you met her and married her, because
 5 she's now converted to Muslim?
 6 A Correct; but when we were dating, I
 7 never really saw her drink, so again I don't -- I
 8 can't speak for her.
 9 Q So in your experience she didn't drink
 10 alcohol?
 11 A She didn't drink and didn't eat any
 12 pork.
 13 Q Was the only person -- are all these
 14 other individuals that were there, other than
 15 Scott, Muslims?
 16 A Yes.
 17 Q And was anyone drinking alcohol at the
 18 Olde Queens Bar other than Scott -- Austin Shaw,
 19 rather?
 20 A Austin Shaw and I believe Robin. They
 21 were really the only two.
 22 Q Why would you go to a bar to celebrate
 23 if you're not drinkers?
 24 A It's a bar with a dance floor. Austin
 25 had called and said it was packed and there was a

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1 lot of people, so come and hang out here rather
2 than going to the other club.

3 Q When you were interviewed by this
4 police officer, this investigator from the
5 prosecutor's office, you related that you only had
6 one alcoholic drink in the bar, a gin and tonic on
7 ice. Do you remember saying that?

8 A I remember I told him I did have the
9 balance of a drink, yes.

10 Q Well, this doesn't say that there was
11 a balance of a drink. It says that you only had
12 one alcoholic drink in the bar, a gin and tonic on
13 ice.

14 Did you tell him that it was only a portion
15 of a drink, or did you tell him that you had a full
16 gin and tonic, as this would lead anybody reading
17 it to believe?

18 A If it says that, then I said that.
19 Again --

20 Q But you didn't have a gin and tonic?

21 A My recollection today is I had a
22 balance of a drink. I was telling you it might
23 have been a gin and tonic, to my recollection, that
24 Austin was --

25 Q Do you think that this officer would

1 the room, and then you started to recount about
2 what happened when you told him what was going to
3 happen. That's the report that I'm talking about.

4 A Okay.

5 Q It also states, "That was all he
6 indicated he drank on the evening of September 30th
7 to October 1st, 2004."

8 Do you remember him asking you whether or
9 not that was all you had to drink and you said it
10 was?

11 A I don't recall. Based on the report,
12 yes.

13 Q This investigator stated that at 10:30
14 in the morning when he was interviewing you that he
15 detected a very strong odor of alcohol emanating
16 from your breath when he was speaking with you.

17 Do you have any knowledge of whether or not
18 you had alcohol on your breath?

19 A If I had a balance of a drink, I
20 would, but I don't know.

21 Q And how do you know that? How do you
22 know that from a person who doesn't drink?

23 A Alcohol smells.

24 Q Have you ever smelled alcohol on
25 others?

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1 have misstated what you said to him or do you
2 believe you may have told him that you had one
3 alcoholic drink, a gin and tonic?

4 A I don't know. I don't say he's
5 misstating everything. I think there's stuff
6 taking out of context; and I did read that, and
7 there's a lot of stuff I did say that's not in his
8 report.

9 Q There's a lot of things that you told
10 this investigator when he was investigating this
11 bias incident that he didn't put in the report?

12 A Yes, sir.

13 Q Well, then you have read the report?

14 A His report, yes.

15 Q You have read it?

16 A Yes.

17 Q You were originally saying you didn't
18 know whether you read this report.

19 A Not that report, the report before it.

20 Q I'm talking about the only report in
21 front of me by Investigator Rodriguez about the
22 bias incident. That is the report that I have
23 always been talking about since we've been starting
24 to talk about you meeting with this Director
25 Catanese and Investigator Rodriguez. You were in

1 A Yes.

2 Q And have you ever smelled alcohol on
3 someone who has had two ounces of a gin and tonic
4 about eight hours before, whether or not they would
5 still have this odor of alcohol?

6 A No; but if you leave a bar or
7 something, you're going to smell like alcohol and
8 cigarettes, which is a given.

9 With all due respect, you go to a Dunkin'
10 Donuts in the morning to get coffee and doughnuts,
11 you leave, your clothes smells like that place.

12 Q You also smell alcohol on people when
13 you don't smell their breath?

14 A If you're in a place for awhile, you
15 could smell it.

16 Q Do you remember telling this officer
17 that there were no racial slurs used by the
18 officers towards him or the group at any time
19 before the incident, during or after the incident,
20 that you could remember?

21 A Yep. I told you that before, correct.

22 Q Do you remember telling the
23 Investigator Rodriguez that you gave a card to an
24 officer from a friend of yours who was employed by
25 the Hunterdon County Sheriff's Office whose name

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1 was German Hupka?
 2 A Yes, sir.
 3 Q Is German Hupka --
 4 A Jeremiah.
 5 Q It's Jeremiah?
 6 A Yeah.
 7 Q Is Jeremiah a Muslim?
 8 A No.
 9 Q Is he an Egyptian?
 10 A No, he's American.
 11 Q And did you know him from just being
 12 in the area of Flemington, a friend?
 13 A Friend.
 14 Q Who happened to be a law enforcement
 15 officer?
 16 A Yes.
 17 Q And did you ever tell the officers at
 18 the scene that this PBA card was from a close
 19 family friend?
 20 A Yes.
 21 Q So that was a lie?
 22 A Family friend.
 23 Q Okay. Did you ever tell him it was a
 24 close family member?
 25 A I gave him the card, said, "This is a

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1 close friend of mine, Jeremiah Hupka."
 2 Q So you didn't say it was a family
 3 member. You said it was a friend?
 4 A Close friend, yes.
 5 Q After this interview by Investigator
 6 Rodriguez when the director was present, did you
 7 then make a determination in your own mind that
 8 this was not racially motivated, this incident?
 9 A At that time I wasn't even thinking
 10 about that, being honest with you.
 11 Q Did you know that that was the purpose
 12 of the investigation from the prosecutor's office,
 13 that this was an officer assigned to the Bias
 14 Investigator Unit and that was -- the purpose of
 15 his interview was to determine whether or not this
 16 was bias?
 17 A He might have stated that. I just
 18 thought they wanted to know my side of the story,
 19 "What happened? Why did you get arrested?"
 20 Q Did you even know that this
 21 investigation about it being a bias incident, who
 22 was it that started all that to make it a bias
 23 incident or racially motivated incident?
 24 A No.
 25 Q Did you ever speak to the press at all

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1 before going to the prosecutor's -- before being
 2 interviewed by this investigator?
 3 A No. I was in jail.
 4 Q Did you know that the press had been
 5 at headquarters?
 6 A No.
 7 Q So at the point that you were being
 8 interviewed by Investigator Rodriguez, you didn't
 9 even know that the press had been called down to
 10 the headquarters or to the hospital or anywhere
 11 else?
 12 A Well, all I know, they said, "Your
 13 lawyer was outside and we are going to release you
 14 to him."
 15 Q The answer to my question is correct,
 16 you didn't even know that the press was involved at
 17 the point that this interview was initiated?
 18 A Correct.
 19 Q And when this officer indicated that
 20 he was investigating whether this was a bias --
 21 racially biased incident, did that surprise you
 22 that that was what he was talking about instead of
 23 just finding out what happened?
 24 A No.
 25 Q So that didn't make an impression on

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1 you that he was indicating that he was from the --
 2 that he was investigating a racially bias --
 3 A I do recall him -- saying something to
 4 him I believe from my name, like I was just telling
 5 you, my name, but he did not say any racial slurs
 6 to me. I did say that to the investigator based on
 7 my name something could have happened. I believe I
 8 was telling you earlier, but he did not make any
 9 racial slurs to me.
 10 Q Do you remember saying to this
 11 officer, after he talked to you about the drink
 12 that you had, that the officer made some threats to
 13 you and then called for backup officers?
 14 A Yes.
 15 Q And then while the officers were
 16 waiting for this backup, the officer started to
 17 write a summons to you and then you were placed
 18 under arrest. Do you remember saying that?
 19 A Um-hum.
 20 Q Is that a "Yes"?
 21 A Yes.
 22 Q The report goes on. "The officers
 23 then pushed him, and all the other officers started
 24 to push his hands to his back to cuff him."
 25 Do you remember that, stating that?

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1 A Yes.
2 Q "They all then fell to the ground and
3 they started to hit him, kick him, and cause
4 injuries to him?"
5 A Yes.
6 Q Do you remember saying that?
7 A Yes.
8 Q "Mr. Kandil related he was then placed
9 in the vehicle and he was taken to the jail."
10 Do you remember stating that?
11 A Um-hum. Yes. My version was longer
12 than what he has there, but yes.
13 Q You don't deny --
14 A Those comments, yes.
15 Q They are all correct?
16 A Yes.
17 Q While in the jail you asked for
18 medical assistance; and after a long period of
19 time, you were taken to the hospital.
20 Correct statement?
21 A An EMT came, and the EMT suggested I
22 go to the hospital and then I was taken to the
23 hospital.
24 Q The next sentence states, "While at
25 the hospital, his cousin appeared and he threw

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1 himself on him while you were lying on the bed."
2 Do you remember saying that to the officer?
3 A I don't recall saying that, no.
4 Q Well, that's not what you told me
5 earlier about the incident. They never touched
6 you. Isn't that right? Sam never touched you?
7 A Correct.
8 Q But here you indicated that your
9 cousin appeared and threw himself on you while you
10 were lying on the bed. Is that a true statement or
11 not?
12 MR. KOBIN: Objection to the form, to
13 the question.
14 Q Is that a true statement or not?
15 A I do not recall.
16 Q What do you mean you don't recall?
17 You don't recall saying that to him or you don't
18 recall that happening?
19 A Both, actually.
20 Q "The officer took him away fighting
21 with the officers."
22 Do you remember saying that?
23 A I remember saying, yes, they were
24 fighting with him, yes.
25 Q Well, this states, "The officer took

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1 him away fighting with the officers," meaning that
2 Sam was fighting with the officers.
3 Do you remember saying that?
4 A Again, I'm explaining the situation,
5 just talking, so I'm not giving specifics, just
6 general question.
7 Q Did you say that Sam was fighting with
8 the officers?
9 A I don't recall saying that. If it's
10 on there and if that was recorded, then I assume
11 it's true.
12 Q Well, that's not what you told us here
13 in the deposition. You said Sam was basically
14 looking at you, asked a question, at which time he
15 was then taken to the ground and then stepped on
16 his neck?
17 A Correct. That was my recollection.
18 Q You didn't say that he was fighting
19 with the officers, did you?
20 A Again, he was turned and he was
21 jumping.
22 Q Did you indicate to me in your
23 deposition that he was fighting with the officers?
24 A No.
25 Q Okay.

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1 A I didn't say that.
2 Q And yet at 10:30 in the morning you
3 told this officer that he was fighting with the
4 officers.
5 MR. KOBIN: Objection to the form.
6 Q Is that right?
7 A He said, "Objection."
8 MR. KOBIN: You can answer it. Go
9 ahead.
10 A What was the question? I apologize.
11 Please say it again.
12 Q You told this investigator at 10:30 in
13 the morning Sam was fighting with the officers?
14 A What I mean by "fighting," they're
15 jumping him and, you know.
16 Q That's what you mean by fighting, is
17 that the officers were jumping on him?
18 A Yeah. It's not like they said,
19 "You're under arrest. Put your hands against the
20 wall" or "Please lay on the floor." They're
21 jumping on him and fighting. When you say put your
22 hands up in the hair and fall down --
23 Q This states the officer took him away
24 and he was fighting with the officers.
25 A He was already cuffed though.

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1 Q He was fighting with the officers when
2 he was cuffed?

3 A Yes, sir.

4 Q Why didn't you tell me that? So
5 that's how you're interpreting what you said to the
6 investigator is that he was fighting with the
7 officers after he was handcuffed?

8 A Yes. That's how I would interpret it.
9 He was already cuffed. How could he even be
10 fighting?

11 Q That's why I'm asking you that
12 question. You just said that he was fighting with
13 the officers after he was handcuffed.

14 A You're repeating the statement. I'm
15 answering the question. You keep asking me the
16 same question. I'm trying to give you an answer to
17 the question.

18 Q I'm asking you what you said to the
19 investigator; and it indicates here, "The officer
20 took him away fighting with the officers." That
21 doesn't mean the officers were fighting with him.
22 It means he was fighting with the officers.

23 MR. KOBIN: Objection to the form as
24 to what that man's handwriting means.

25 MR. CONNELL: I'm asking him what the

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1 sentence means. "The officer took him away
2 fighting with the officers."

3 MR. KOBIN: How does he know? How
4 does he know?

5 Q Did you tell Investigator Rodriguez
6 that Sam was fighting with the officers?

7 MR. KOBIN: Good. That's a question.
8 There you go.

9 MR. CONNELL: The other one was a
10 question too.

11 MR. KOBIN: Did you tell him that?

12 Q Did you tell the officers,
13 Investigator Rodriguez, that Sam was fighting with
14 the officers?

15 A I'd say yes, yes.

16 Q How far would you say Investigator
17 Rodriguez was to you when he was interviewing you
18 in that room?

19 A Probably same distance, three, four
20 feet.

21 Q Well, when you say the "same
22 distance," you're pointing at the lady sitting
23 beside you as well as to me. Which one is it?

24 Was he sitting at a corner of a table with
25 you?

1 A He was sitting. I might have been
2 standing.

3 Q Well, is that right? You were
4 standing during the interview or were you sitting
5 during the interview?

6 A I said he was sitting and I might have
7 been standing.

8 Q You might have been. Were you
9 standing or not? Do you know?

10 A I don't recall. I want to say I was
11 standing, to my recollection.

12 Q You stated that when you were at the
13 scene of this incident and when you handed them
14 your license which has your name of Bassem Kandil,
15 which in your mind you believed that it's at that
16 point they took their actions against you and it
17 was racially motivated. That was in your mind.

18 Do you remember telling me that?

19 A Yes.

20 Q After the incident was over and after
21 this interview was done by the investigator, did
22 you still have that belief in your mind, that what
23 they did to you was because you were of Arab
24 descent?

25 A In the back of my mind, I believe that

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1 was a cause of it. I told them there was no racial
2 slurs.

3 Q Do you recall that up to the present
4 time that these officers were racially motivated in
5 doing what they did to you?

6 A Partially.

7 Q Why didn't you include that in the
8 complaint? You haven't alleged that in the
9 complaint that this was a racially motivated
10 incident.

11 A I'm not alleging that.

12 Q I'm asking you why?

13 A I'm alleging I got beat up for no
14 reason. That's what I'm alleging.

15 Q One of the reasons you're saying you
16 were beat up was --

17 A Again, I'm saying that's partial. I
18 have nothing to prove it if they -- I have nothing
19 to prove it.

20 Q Is that the reason why you didn't
21 include it in the complaint, because you knew you
22 couldn't prove it?

23 A I never really discussed that.

24 Q Well, but you still believe that one
25 of the reasons why these officers reacted in the

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1 way they did was because of their racial bias?

2 A Yes. I believe it's partial, one of
3 the reasons, one of many reasons, not the main
4 reason.

5 Q Even though it's not the main reason,
6 or it is a reason in your mind?

7 A Yes.

8 Q And yet in spite of the fact it's a
9 reason in your mind, you decided not to allege that
10 in the complaint?

11 A Correct, sir.

12 Q And the reason why that you have not
13 alleged it in the complaint is what?

14 A Again, I know that's not the main
15 reason, finding out later that that's not the main
16 reason.

17 Q You're only putting part of the
18 reasons in the complaint, not all of the reasons in
19 the complaint?

20 MR. KOBIN: Objection to the form.
21 All the reasons for what?

22 MR. CONNELL: For why the officers
23 acted the way they did.

24 MR. KOBIN: Slow down. You mean for
25 their assault on him? Are you suggesting that in

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1 the complaint --

2 MR. CONNELL: First of all, it's a
3 speaking objection. You're not permitted to make
4 any speaking objections.

5 MR. KOBIN: You have to ask
6 questions -- I object to the form.

7 MR. CONNELL: Fine. You can object to
8 the form. That's the limit of --

9 MR. KOBIN: Your questions are
10 extremely misleading.

11 MR. CONNELL: Beyond stating you
12 object to form, you're not permitted to make a
13 speaking objection on the record.

14 MR. KOBIN: Your questions are
15 extremely misleading and you're being unfair with
16 the whole line of questioning; but, fine, I object
17 to the form.

18 You can answer the question.

19 BY MR. CONNELL:

20 Q You indicated in your mind at the time
21 of the incident, even before the officers put their
22 hands on you, that you thought that they were
23 racially biased once they read your name, correct?
24 That was in your mind, correct?

25 A After the series of events I believe,

1 yes, that was a cause.

2 Q No. You indicated as soon as they got
3 your license and they read your name, you believe
4 that the actions that they took were then racially
5 biased.

6 A Initially, yes.

7 Q And then, you know, during the course
8 of that evening when they began to put their hands
9 on you and beat you, as you've indicated, did you
10 believe that that was also racially motivated?

11 A I wasn't thinking at that time. I was
12 just getting beat up.

13 Q And then when you were questioned by
14 an investigator of the prosecutor's office who told
15 you he was investigating an allegation that this
16 action of the New Brunswick police was racially
17 motivated and that this was a biased incident, did
18 you at that point again remember that the
19 incident -- and did you conclude that these
20 officers were partly doing what they did to you
21 because it was racially motivated?

22 A I did say I believe because of my name
23 that was a reason why, but I don't know the true
24 reason why they beat me up.

25 Q And then when you were involved in

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1 instituting this lawsuit in an original complaint
2 which included Sam and Halla as plaintiffs and then
3 an amended complaint that just has yourself and
4 your wife as plaintiffs, if that was still in your
5 mind that there was racial bias for what they did,
6 it was partly responsible for what they did, why
7 didn't you put that in the complaint?

8 A Because I find out later that that's
9 not the main reason. There was another reason.

10 Q So therefore you didn't want to put
11 all of the reasons in there? Even though you think
12 it was a reason, you didn't want to put all the
13 reasons in the complaint?

14 A Back of my mind I really didn't see it
15 as being a big issue. It was in the back of my
16 mind, and I never real sat down and discussed
17 anything.

18 Again, I find out later the reason why I got
19 arrested had nothing to do with that, so now I'm
20 not alleging that they were saying racial things.
21 I'm alleging I got beat up.

22 Q Do you know a Pamela Radziewicz?

23 A I know who she is. I don't know her
24 personally.

25 Q Did you know Pamela Radziewicz before

129

1 October 1st, 2004?

2 A No.

3 Q Do you know whether or not any member

4 of your group that was with you that night knew

5 Pamela Radziewicz?

6 A Well, there was Romain and I believe

7 Austin.

8 Q How do you know that Romain and Austin

9 knew Pamela?

10 A I believe also Aktar, who was also at

11 the club, and we didn't write his name, Aktar

12 Farzaie.

13 Q Aktar?

14 A Aktar, A-K-T-A-R, Farzaie.

15 Q Is that the brother of the other

16 Farzaie?

17 A Yes.

18 Q That's Romain Farzia's brother?

19 A Yes. I started to say he came later.

20 He met us also there.

21 Initially they really didn't recognize

22 Pamela. They were talking to a different girl.

23 Later on during that day they saw Pamela leaving

24 the police station when they were in front of the

25 police station, and they recognized her.

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1 Q Well, do you know whether or not

2 Romain, Austin and Aktar Farzaie knew Pamela

3 Radziewicz or did they know the girl that she was

4 with? Did they ever tell you that they also knew

5 Pamela as well as Lindsay?

6 A Yes.

7 Q And do you know what Lindsay's last

8 name is?

9 A No.

10 Q Did you ever ask Romain, Austin and

11 Aktar whether or not they knew Lindsay's last name?

12 A No.

13 Q Did you ever ask them whether or not

14 they knew Lindsay and didn't know Pamela?

15 A No. They said they recognized her

16 outside and even called, "Are you Pamela?"

17 Q Are you saying -- when you're saying

18 that they recognized Pamela, they recognized Pamela

19 when she was coming out of the police department

20 later on?

21 A Yes.

22 Q Did you ever ask them whether or not

23 they knew -- other than recognizing her from being

24 with Lindsay when you came out of the bar, did you

25 ever ask them whether or not they knew Pamela prior

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1 to October 1st, 2004?

2 A They said they knew her from -- they

3 live near each other, so they knew her from the

4 area.

5 Q So therefore --

6 A That incident, they didn't recognize

7 her when they first met those girls. That's what

8 I'm trying to say.

9 Q So it's your understanding then that

10 Romain Farzaie, Austin Shaw and Aktar Farzaie all

11 knew Pamela prior to October 1st, 2004?

12 A From outside, yes.

13 Q And they also knew Lindsay prior to

14 that?

15 A Yes, that was my understanding,

16 correct.

17 Q And you never asked them what

18 Lindsay's last name was?

19 A No.

20 Q Do you know up to the present time

21 what Lindsay's last name is?

22 A No.

23 Q At the time of this incident, who

24 walked out of the bar first among your group?

25 A We all pretty much walked out around

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1 the same time. Austin had came out maybe trailing

2 a minute behind us. He was waiting for one of his

3 friends to come out.

4 Q Are you sure that you all walked out

5 together other than Austin trailing by a minute?

6 A Yes. We all walked out at the same

7 time.

8 Q Do you remember stating in Answers to

9 Interrogatories that your wife and the other female

10 that she was with went to get the car first?

11 A We were outside already.

12 Q So you're talking about -- you walked

13 outside the door out of the bar and you were

14 hanging around on the sidewalk before they left to

15 go and get the car?

16 A That's the way I understood your

17 question.

18 Q So when you say you all walked out

19 together, that means you all left the bar together;

20 but then parts of that group separated once you

21 were on the sidewalk?

22 A Pretty much waiting for Austin to come

23 out. I believe somebody wanted to go to the

24 bathroom; and we were discussing couple of guys

25 were hungry, they wanted to get something to eat.

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1 Flora and her girlfriend -- I don't remember
2 if it was they were cold or not, "While you're
3 discussing what we're going to do, we'll pull up
4 the car and come back and meet you guys."
5 Q Did you drive there?
6 A Yes.
7 Q And why is it that you didn't go and
8 get the car?
9 A They were cold and they just wanted to
10 leave, but I was going to drive as soon as she
11 came. I was jumping in the driver's side to drive.
12 Q Do you remember the temperature that
13 day?
14 A I don't remember, no.
15 Q October 1st, '04, when you say it was
16 cold, can you give us a rough estimate?
17 MR. KOBIN: He didn't say that.
18 You're mischaracterizing.
19 MR. CONNELL: I'm sorry.
20 MR. KOBIN: He said the girls said
21 they were cold.
22 MR. CONNELL: I'm ready to restate it.
23 BY MR. CONNELL:
24 Q You say that the girls stated that
25 they were cold. Were you cold?

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1 A I don't remember.
2 Q Do you know where you parked your car?
3 A Yes. I don't know the street; but,
4 yes, I know where it was located.
5 Q Did you park on the street as compared
6 to in some lot?
7 A Yes.
8 Q And do you know what street that this
9 Olde Queens Tavern was located?
10 A Olde Queens is on Easton Avenue.
11 Q Did you park on Easton Avenue?
12 A No, it was one of the side streets off
13 of Easton.
14 Q And how far from the Olde Queens
15 Tavern was the car parked, a half a block away or
16 was it a block and a half away or what?
17 A It was one to two blocks down Easton
18 Avenue towards 287, and then you made a right maybe
19 another few hundred feet.
20 Q Were you concerned at all about your
21 wife and girlfriend's safety in walking to the car
22 in New Brunswick?
23 A No.
24 Q Okay. And you didn't decide to walk
25 with them while the other portion of the group was

1 deciding what they wanted to do?
2 A Correct. They left on their own.
3 Q Did any male supervise them or escort
4 them to the car?
5 A No.
6 Q And does your wife normally drive that
7 Lincoln Navigator?
8 A No, it's my car.
9 Q Had she ever driven it before?
10 A Yes.
11 Q When you say it's your car, it's the
12 dealership car --
13 A No, it was my personal car I bought.
14 Q It's your personal car?
15 A Yeah, my car. She had her own car.
16 Q So you believe that you basically
17 walked -- it was either a block and a half or two
18 and a half blocks from the Olde Queens Tavern that
19 the car was parked?
20 A Yes.
21 Q And would you agree that the Olde
22 Queens Tavern is approximately mid block,
23 somewheres in the middle of the block?
24 A Off of Easton Avenue, you mean?
25 Q Yes.

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1 A It's in the middle of a block on
2 Easton Avenue. I believe it's on a corner.
3 Q Olde Queens Tavern is on a corner?
4 A Yeah.
5 Q Do you know whether or not it's within
6 the same block, although it may be on the opposite
7 side of the street, of a Shell Station?
8 A I believe it's -- yeah, it's past the
9 Shell Station.
10 Q Well, as you're going towards your
11 car, would you, if you're leaving the Olde Queens
12 Tavern -- first of all, the Shell Station is on the
13 opposite side of the street of Olde Queens Tavern?
14 A Diagonal, yes.
15 Q Is it on the opposite side of the
16 street on Easton Avenue from Olde Queens Tavern?
17 A Yes, diagonal.
18 Q I didn't ask you diagonal. Is it on
19 the opposite side of the street?
20 A Okay.
21 MR. KOBIN: Look. The man is allowed
22 to answer your questions the way he interprets your
23 questions. You can do follow-up questions.
24 MR. CONNELL: That's what I'm doing.
25 MR. KOBIN: No, you're attacking and

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1 editorializing. Ask your next question.
2 Objection to form, and I object to the
3 editorializing. He will answer questions. You can
4 pose other questions if you don't think --
5 MR. CONNELL: No further speaking
6 objections.
7 MR. KOBIN: Well, you're going to get
8 speaking objections if you editorialize.
9 MR. CONNELL: I'm asking questions.
10 I'm not editorializing.
11 BY MR. CONNELL:
12 Q Was Olde Queens Tavern on one side of
13 Easton Avenue and Shell Station is on the other
14 side of the street?
15 A Yes, sir.
16 Q Was the Shell Station closer to where
17 you parked the car from the Olde Queens Tavern?
18 A Yes, sir.
19 Q Did at some point you decide to leave
20 the group that you were in to go and catch up with
21 your wife?
22 A Yes.
23 Q And when did that happen?
24 A As soon as Austin came out, I said,
25 "Let's go try to catch up to these guys," and then

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1 we all as a group -- I started walking and
2 everybody came with me. I said, "Let's go." We
3 decided as we were going -- walking we decided we
4 were going to stop at a certain place and get
5 something to eat, and we decided to catch up to
6 them.
7 Q You had made your arrangements to get
8 something to eat before the group left the front of
9 the tavern?
10 A Pretty much, yeah.
11 Q But the girls had already left?
12 A Yes.
13 Q And when you began to walk to the car,
14 did you immediately cross Easton Avenue or did you
15 go down to the corner before crossing Easton
16 Avenue?
17 A I say midway, midway walking down
18 Easton Avenue we crossed over.
19 Q When you say "midway," would it be
20 midway to the Shell Station is when you crossed?
21 A Yes.
22 Q And then when you crossed, you were
23 then on this side of the street that the Shell
24 Station is located when you then stopped and saw
25 some people in the Shell Station?

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1 A Yes.
2 Q Were all these gentlemen that you have
3 described before, including Austin, with you at
4 that time?
5 A I believe, yes, Austin was there too.
6 Q So present at the gas station would
7 have been you, Abdel Halim, Abdel Aziz, Mohamed
8 Farzaie, Mohamed Romain Farzaie, Robin Kolcote --
9 not Robin, and Austin Shaw; and Romain's brother,
10 Aktar Farzaie.
11 A I don't remember if Aktar was
12 physically there or not.
13 Q What do you mean by that?
14 A Well, he came in his own car, so I
15 don't recall if he was walking with us or not; and
16 Austin had his own car, but Austin was parked --
17 Q Have you ever learned subsequently
18 that Aktar was there and was a witness to what
19 happened in the Shell Station?
20 A I don't believe he saw what happened
21 in the Shell. I believe he saw later on when it
22 happened.
23 Q Therefore, the people of the eight
24 that arrived together would have been reduced by
25 two, which were the two females, and added by

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1 Austin; so therefore there would have been seven
2 males present at the time that you were at the
3 Shell Station. Is that right?
4 A Yes.
5 Q Do you recall any of those males
6 continuing to walk towards your wife's position and
7 her girlfriend's position, or did all remain there
8 and start talking with these girls in the Shell
9 Station?
10 MR. KOBIN: Objection to the form.
11 MR. CONNELL: Let me try to ask it
12 again.
13 MR. KOBIN: Let me just give you form.
14 It's two or three questions.
15 BY MR. CONNELL:
16 Q The seven males that you said were in
17 the group when you were at the Shell Station, did
18 any of them continue to walk towards your wife and
19 her girlfriend, or did all remain at the Shell
20 Station while you were talking with them before the
21 police arrived?
22 A We were actually cutting through the
23 Shell Station to try to catch up to them. Reason
24 was they walked an "L" shape, sort of.
25 So she walked down Easton Avenue and made a

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1 right, so our goal was really to walk across, cut
2 through the shell and meet up with them. We knew
3 we would meet up there. We cut through the Shell
4 Station really to catch up to them, so we were all
5 together.
6 Q Was the car parked on the side street
7 where that Shell Station intersects?
8 A It was the next street over, so we
9 were just going to walk through. Again, it's just
10 residential, you know, and houses and stuff,
11 whatever is back there, I don't recall.
12 Q Well, was the car parked more than a
13 block in from Easton Avenue? You said it was about
14 200 feet.
15 A I said a hundred to two hundred feet.
16 Q That would still be within the first
17 block, would it not?
18 A Yes.
19 Q From Easton Avenue?
20 A Yes.
21 Q Why would you cut through the Shell
22 Station when that's one or two blocks short of the
23 street where you parked?
24 A Again, if you have an "L" shape and
25 they're going longways, we are cutting through

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1 catching up to them like a triangle.
2 Q I can understand that if the car was
3 parked on the side street where the Shell Station
4 is, but it was not, was it?
5 A We were going to cut through and go to
6 the other street walking through, walking a
7 diagonal pattern.
8 Q The Shell Station is at the corner, is
9 it not?
10 A Yes.
11 Q Okay. And when you said that before
12 you got to the Shell Station you had crossed from
13 the Olde Queens Tavern, you crossed Easton Avenue
14 and then you were walking along the sidewalk, and
15 the Shell Station would now be on your right,
16 correct?
17 A Yes.
18 Q And that was not the block where you
19 parked the car, so why would you cross through that
20 Shell Station if you still had to go towards 287
21 one or two more blocks?
22 A No, because that next street over was
23 where the car was parked. So our goal was to cut
24 through Shell, keep walking diagonal pattern and
25 meet up where the car was, which would be the next

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1 street they were at.
2 Q You were going to go down the street
3 where the Shell Station was and then go up the next
4 street and then come back to the left?
5 A No. We would have met up at the same
6 point.
7 MS. O'CONNOR: Do you want him to draw
8 a diagram?
9 MR. CONNELL: Yes.
10 Q Why don't you draw me Easton Avenue?
11 A It would be my pleasure.
12 Q And before you start to draw, let me
13 tell you what I want you to draw on the diagram so
14 you can have the -- we want to put Easton Avenue on
15 the diagram. I want you to put intersecting
16 streets that existed up to the point where you
17 parked the car and also where the Shell Station was
18 in relationship to Olde Queens Tavern. Okay?
19 A Again, I wouldn't know how many
20 streets there were exactly.
21 Q Well, you said it was one or two. We
22 know that it wasn't the street where the Shell
23 Station was located, right, where you parked the
24 car?
25 A Correct.

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1 Q Would you agree is the Shell Station
2 within the same block as Olde Queens Tavern?
3 A Yeah, same block. Again, this is not
4 to scale again because I don't remember how far it
5 is and so forth.
6 You have the street here, and then my
7 recollection there was a school back here
8 somewhere, and again everybody is parked in the
9 street, and again maybe this is the street and
10 there was another street, and you have this here.
11 So again whether it was one or two blocks
12 away, they basically walked down the street
13 longways, and I knew the car was back there and we
14 walked basically this way.
15 (Witness indicates.)
16 Q Okay. But aren't there residences on
17 the opposite side of the street where the Shell
18 Station is and then another street? I mean you
19 couldn't walk right through the Shell Station right
20 through residences or whatever is in that next
21 block to where the car was, could you?
22 A We were walking through to see what
23 was back there because we knew the car was back
24 there. I don't remember how many streets, if there
25 was entrances or exits. We got to go -- I couldn't

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1 tell you, we never made it that far. We stopped at
2 the Shell.
3 Q Wouldn't it make more sense if you had
4 done what you did and -- I don't have any question
5 about you crossing the street. Initially you
6 crossed the street somewhere mid block between
7 where the Olde Queens was and Shell station. You
8 crossed Easton Avenue?

9 A Yes.

10 Q Why don't we write in "Easton Avenue"
11 on this?

12 A Sure. (Witness complies.)

13 MR. KOBIN: Can I just -- Mr. Connell,
14 I assume you're going to straighten this out
15 because I'm not sure whether this is two streets or
16 one street there.

17 BY MR. CONNELL:

18 Q This right here would be the next
19 block, would it not (indicating)?

20 Why don't you draw a line in?

21 A This would be one street (indicating).

22 Q I understand, but they make -- and
23 then this is the next street over (indicating).
24 Isn't that right?

25 A Yes.

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1 Q You mean this to be a street, but you
2 don't know what the name of the street is, isn't
3 that right, where we've just drawn at the end of
4 this diagram (indicating)?

5 A Yes.

6 Q It's the next block after the Shell
7 Station?

8 A It could have been one or two, yes.

9 Q We don't know whether or not it was
10 one or two blocks away, but it was certainly not
11 the block where the Shell Station was located,
12 correct?

13 A Yes.

14 Q And it wasn't as far down as the next
15 intersecting street, whichever that would be,
16 closer to the Rutgers campus. Isn't that right?
17 It didn't get to the next intersecting street
18 beyond Easton?

19 A I do not recall. You asked me
20 estimate of the distance; and without me physically
21 being there, I'm estimating one to two hundred
22 feet. It could have been another street back.
23 Again, it could have been one block back. I know
24 it was down that street.

25 Q You said one to two hundred feet.

1 Would that have been on the same block that is
2 closest to Easton Avenue?

3 In other words, you didn't park it more than
4 a block from Easton Avenue, did you, whichever
5 street that was?

6 A I do not recall. I remember it was
7 like -- a school or something was back there, so we
8 parked in that area, whether it was one block away
9 or a little further than that.

10 Q What I'm asking you, sir, is this.

11 Was there some reason why you would not have
12 crossed this street that borders the Shell Station
13 and walked to whatever block it was that you parked
14 your car and then turned up that street to get to
15 your parked car?

16 What was the reason why you didn't decide to
17 walk in that fashion?

18 A Because they left probably a minute
19 before us and we figured by going -- mathematically
20 if you did the calculation, this is shorter than
21 going this way (indicating).

22 Q No question --

23 A We were trying to cut through. Again,
24 we went to the Shell, and that's when we got
25 stopped. We never walked back there.

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1 I do remember we were walking this way to
2 come back up. Actually, I think we might have
3 walked across this way originally.

4 (Witness indicates.)

5 Q Did you walk through residences in
6 this block opposite the Shell Station?

7 A No. There was streets and there's
8 pathways. I remember there was a street or we
9 could have walked -- I don't remember how we got
10 there exactly. I remember there was a way to go
11 diagonal, and that's why we decided to go diagonal,
12 just to catch up to them.

13 Q In any event, when you began to cross
14 through the Shell Station is when someone
15 recognized two females that were in that Shell
16 Station?

17 A Recognized one of them, which was
18 Lindsay.

19 Q And who is it that recognized Lindsay?

20 A I believe it was Romain, Mohamed
21 Farzaie.

22 Q And how did he express recognition of
23 Lindsay?

24 In other words, how do you know that he
25 recognized her? Did he call her out by name or

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1 what?
2 A Yes. He started talking to her, and
3 he's like, "You're Lindsay. I'm Romain. Remember
4 me?" this, that, that, that, "from Hillsborough."
5 I believe she was from the Hillsborough area or
6 something like that.
7 Basically they had known each other from --
8 I don't know if they were close, close friends,
9 but, you know, meeting together in groups and
10 stuff, so he knows her that way.
11 Q Where were those girls located in
12 relationship to the automobiles or the Shell
13 Station or what? What did it appear they were
14 doing? Were they inside a car, outside?
15 A They were standing outside a car. The
16 car was parked in the Shell in the parking lot.
17 Q What car was parked?
18 A Their car.
19 Q How do you know it was their car?
20 A They were standing by it.
21 Q How do you know it was their car?
22 You're just assuming that that's their car?
23 A I believe the driver's door was open,
24 and actually I don't know if the passenger was.
25 Q Did it appear that they were getting

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1 in or out of the car? Did you know?
2 A Looks like they were getting in the
3 car, I believe.
4 Q Did you see who was the driver on the
5 driver's side, whether it was Lindsay or Pamela?
6 A The driver's side was Pamela. Lindsay
7 was on the passenger's side.
8 Q Can you just draw in the car?
9 A (Witness complies.)
10 I don't know where it was, but it was
11 somewhere in the middle of the Shell Station.
12 Q Now we have two blocks in there.
13 A I'm trying -- one block on top of the
14 Shell and one block next to the Shell. That's
15 supposed to be one car, trying to draw a vehicle
16 somewhere in the middle of the parking lot.
17 Q Put a triangle in front of this block
18 to indicate which direction it was facing
19 (indicating).
20 MR. CONNELL: Do you mind if I make
21 this all one block? That's what he's trying to
22 make it.
23 MR. KOBIN: Why don't you put on there
24 "car"?
25 THE WITNESS: I started putting that,

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1 but then you're too far from the --
2 BY MR. CONNELL:
3 Q Now, why don't we write in "car" like
4 here and then we'll put the Shell Station below it,
5 all right, so we know that that's what it is
6 (indicating).
7 A (Witness complies.)
8 Q What your recollection is -- do you
9 know how many cars were parked in this Shell
10 Station?
11 A No.
12 Q Do you know where it was in
13 relationship to the pumps, the gas pumps?
14 A I do not remember.
15 Q When you began to walk through, the
16 first person that Romain recognized would have been
17 the person on the driver's side?
18 A Correct.
19 Q And you're sure that the person on the
20 driver's side was Pam?
21 A Yes.
22 Q And Lindsay was on -- I'm sorry. Did
23 I say the drivers side? Pam was on the driver's
24 side. Lindsay was on the passenger's side?
25 A Pam wasn't facing -- she was on the

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1 phone looking that way (indicating).
2 Q Looking back towards the Olde Queens
3 Tavern?
4 A Yes.
5 And then Lindsay, she was just standing,
6 like I said, by the door. So really as we started
7 passing the car, they were just looking over; and
8 he started to say, "Hey. Are you" this, that and
9 "Are you Lindsay?"
10 Q Therefore, Pamela would have been
11 looking back on the phone facing you as you guys
12 were approaching her?
13 A She was walking around, so yeah.
14 Q Well, I don't want you to say "yeah"
15 to something that I'm not asking.
16 You said that she was facing towards the
17 Olde Queens Tavern. She was on the cell phone.
18 You would have been --
19 A We were passing in -- when we cut
20 through the Shell, we were going in front of the
21 vehicle. We didn't go behind the vehicle.
22 Q You already said that you had crossed
23 Easton Avenue and you began to walk up Easton
24 Avenue before getting to the corner where the Shell
25 Station was. You crossed somewheres in the mid

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1 block, so therefore you would have been walking on
2 the sidewalk on this side of Easton Avenue before
3 you got to the Shell Station (indicating). Is that
4 correct or not?

5 A We crossed the street to go to the
6 Shell. Whether it was here, here, but we did cross
7 in that vicinity of the Shell Station.

8 Q So therefore you didn't walk along the
9 sidewalk on Easton Avenue. Is that right?

10 MR. KOBIN: Objection.

11 Q You didn't walk on the sidewalk prior
12 to the Shell Station on that side of the street
13 before getting to the Shell Station. You would
14 have crossed diagonally through the Shell Station.
15 Is that what you're saying?

16 A To be honest with you, we crossed the
17 street to go to the Shell. Whether it was halfway
18 through, quarter way through, we crossed. How far
19 back, I don't recall. Again, I don't remember
20 specifics of where, how far I crossed.

21 Q Fair enough. But you do remember that
22 Pam was facing the Olde Queens Tavern, the door was
23 open, the driver's side was open, and she was on
24 her cell phone before you encountered her. Is that
25 right?

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1 A To my recollection, yes. We passed in
2 front of the car. So like I said, I'm not paying
3 attention because I'm going straight going to my
4 wife with them. We were walking as a group; and
5 one of them stopped, looked over and started
6 talking to the girl which, I didn't know, I found
7 out later was Lindsay.

8 Q Did you know that she was talking on
9 the cell phone at the time you saw her on the cell
10 phone?

11 A No, I didn't know.

12 Q You don't know whether she was talking
13 or you didn't recognize that? You didn't --

14 A I wasn't paying attention. Like I
15 said, I'm trying to get my wife.

16 Q Now, you said she was walking around.
17 I thought you said that it looked like they were
18 getting into the car.

19 A Well, the door was open.

20 Q But she was not getting into the car
21 at the time she was talking on the cell phone. She
22 appeared to be talking, walking in circles or
23 whatever?

24 A Yeah, not really walking far, but just
25 around.

1 Q Did you see what Lindsay was doing at
2 the point that you saw Pamela basically walking
3 around in the area of the driver's side door with
4 the cell phone?

5 A She was just standing by the door, by
6 the tires.

7 Q She had not gotten into the car?

8 A No. She was by the hood, door area on
9 the passenger's side.

10 Q And did your friends walk right up to
11 where Lindsay was?

12 A Yeah. We already passed cars and we
13 were passing the car. We weren't next to the car.
14 The car is maybe ten, five, ten feet away from us;
15 and we just recognized her and said, "Are you
16 Lindsay? I'm Romain. Do you remember me?" that,
17 that, that, and just having a friendly
18 conversation.

19 Q And was everybody involved in that
20 conversation in your group or was it really only
21 the conversation between Romain and Lindsay?

22 A It was more Romain and Lindsay; and
23 again, I believe I had also walked up. We were
24 pretty much standing near the car.

25 Q The only two engaged in the

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1 conversation --

2 A Was really those two. They were
3 really going back and forth.

4 Q I assume that you expected that this
5 would be a very short conversation because the
6 intent of moving was to go catch up with your wife.
7 Is that fair?

8 A Yes, sir.

9 Q And how long was the conversation that
10 was going on with Lindsay before the police pulled
11 up?

12 A Couple of minutes, two I guess.

13 Q When you say "two minutes," do you
14 understand we're talking about sixty seconds times
15 two?

16 A Yeah, two to three minutes.

17 Q During the course of that
18 conversation, would you say that it was very
19 polite?

20 A Yes, sir.

21 Q Did you engage in any discussion, any
22 conversations?

23 A I remember her saying something to
24 Romain that she was leaving on vacation the next
25 day. So he was joking around and said, "We're

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1 going on vacation too. Maybe we'll meet you guys
2 in the airport," joking around.
3 Q You didn't say anything in the course
4 of the two minutes? The only people talking was
5 Romain and Lindsay to each other? You guys may
6 have been talking among yourselves, but do you
7 remember anybody talking to Lindsay other than
8 Romain?
9 A When he said, "We're going on
10 vacation," he said, "Yeah, we're going on
11 vacation," I said, "Yeah, yeah, we are going on
12 vacation," but I didn't really -- one or two words.
13 Q That would have been about the extent
14 of anything that you would have said to Lindsay was
15 "Yeah, we're going on vacation together"?
16 A Yeah, joking around, and she knew we
17 were joking. She was laughing and so forth.
18 Q Is it fair to say nothing happened in
19 the discussion with Romain and Lindsay that would
20 have alarmed Lindsay, in your opinion?
21 A Correct.
22 Q Is that fair to say?
23 A Yes.
24 Q And would it be fair to say if Pamela
25 was listening to that conversation, there would

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1 have been nothing that would have alarmed her?
2 A Correct.
3 Q At least from your point of view?
4 A Yes.
5 Q And therefore you don't know of
6 anything that could have been going on with respect
7 to Lindsay's conversation with Romain that would
8 have warranted anybody calling the police to come
9 and rescue anybody that was involved in that
10 conversation. Is that fair?
11 A Correct, sir.
12 Q And in fact, Pamela was already on the
13 phone with somebody, or we don't even know if she
14 was talking to somebody. We know she was on the
15 phone already before you guys initiated your
16 two-minute conversation, correct?
17 A My recollection, yes.
18 Q Then the next thing that happens is
19 the police arrived at the scene?
20 A Yes. Again, I'm walking to catch up
21 to my wife. I'm not paying attention to those two
22 girls.
23 As we were talking, as Romain is talking to
24 Lindsay, Pamela is on the phone. So I don't want
25 to misinform you was she on the phone before I got

1 there or not. Again, I wasn't paying attention to
2 the girls.
3 Q But you said when you were walking
4 through the lot, you noticed that she was walking
5 around with a cell phone in her hand. You don't
6 know if she was talking at the time. You didn't
7 take enough --
8 A Exactly, wasn't paying attention to
9 either one. She might have been listening to
10 the --
11 Q But did she have the phone actually to
12 her ear when you saw her?
13 A Yes.
14 Q Now, did you say anything during the
15 two minutes that you were having this discussion to
16 Romain that "Hey, come on. We got to go. I got to
17 catch up" with your wife or tell him that you're
18 going to go ahead and catch up with your wife?
19 Was anything like that mentioned in those
20 two minutes?
21 A I believe I said, "Yeah, let's go."
22 Q And was that said before you saw the
23 police car pull up?
24 A No, because I remember -- no.
25 Q So therefore you hadn't made any --

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1 A No, I'm sorry. It was, yeah, before
2 the police came.
3 Q Did you mention to Romain, "Come on.
4 Let's go"?
5 A Yes, yes, yes.
6 Q And did Romain say anything to you in
7 response to that?
8 A Well, at that point they were cutting
9 off the conversation, saying, "Okay, guys. It's
10 late. Let's go," this and that.
11 Q Did you see them exchanging phone
12 numbers or anything like that?
13 A As we were leaving, I believe he said,
14 "What's your phone number?" and she read it, you
15 know, sent it out to him.
16 Q Do you know whether or not he wrote it
17 down or put it in his cell or anything like that?
18 A I don't know if he wrote it down. I
19 think he just memorized it. I don't recall if he
20 put it in --
21 Q Did you see from where the police unit
22 was proceeding, on what street it was, in what
23 direction it was going when it pulled into the
24 Shell Station?
25 A It was coming down Easton Avenue same

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1 direction their car was parked, so facing 287.

2 Q So it was coming from downtown going
3 towards 287?

4 A Yes, sir.

5 Q And it pulled up onto the sidewalk.
6 Is that right?

7 A Yes.

8 Q And did it -- can you put a symbol for
9 a car like you did indicating where it was in
10 relationship to Easton Avenue, this being one
11 corner of the street, that being the opposite
12 corner of the street (indicating)?

13 What I'm trying to figure out, was it
14 completely on the sidewalk? Was it halfway on the
15 sidewalk, or was it completely in the street?

16 Do you understand what I'm asking you?

17 A My recollection, the whole car -- I
18 don't remember if the whole car was on the sidewalk
19 or maybe two wheels were out. I want to say they
20 basically pulled up onto the curb and parked in
21 front of -- or not in front of, but --

22 Q Alongside?

23 A Alongside.

24 Q Well, then draw in that block like
25 you've done; and you're not exactly sure whether or

1 talking about where Pam was located and where the
2 two vehicles were located when the officers pulled
3 up. Do you remember that?

4 A Correct, sir.

5 Q But Pam was still between the two
6 cars. Would you just put "PK" -- or "PR," I'm
7 sorry, "PR" in front somewhere where she was.

8 A (Witness complies.)

9 Q And also put seven feet as
10 approximately the distance between the two cars.

11 A (Witness complies.)

12 Q All right. Did you happen to know
13 either of the officers before they talked to you?

14 A No.

15 Q Had you ever seen either one of them
16 before, even if you didn't know their names?

17 A No, sir.

18 Q And do you happen to know which
19 officer was driving and which was in the
20 passenger's seat of the patrol car?

21 A Yes. Yurkovic was driving; and Oels,
22 I guess it's junior, not the sergeant, the other
23 Oels, was in the passenger's side.

24 Q When the officers pulled up, where
25 were you standing?

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1 not the left wheels were in the street or not?

2 A Yes, correct.

3 Q How far apart would you say the police
4 car's right side was from the left side of the
5 girl's car?

6 A Seven feet maybe.

7 Q Okay. So it was far enough for her
8 driver's side door to have still been open without
9 them contacting it?

10 A Correct.

11 Q And was it still open when they pulled
12 up?

13 A I don't remember.

14 Q Do you know where Pamela was when they
15 pulled up?

16 A She was standing there when they
17 pulled up.

18 Q She's between the two cars?

19 A Yes.

20 MR. KOBIN: Do you want to pick a
21 break point?

22 (At this point in the proceedings, a
23 lunch recess is taken.)

24 BY MR. CONNELL:

25 Q When we left off, Mr. Kandil, we were

1 A On the passenger's side of -- I assume
2 it's Pamela's car.

3 Q Would you put your initials over in
4 the area where you were?

5 A Sure. (Witness complies.)

6 Q And basically your group with Lindsay
7 was all in that same area?

8 A Correct, around there.

9 Q And the officers pulled up, and could
10 you tell whether or not the passenger's side window
11 was open?

12 A Yes, it was.

13 Q Do you have any idea whether or not
14 the driver's side window of the patrol car was
15 open?

16 A At that point I don't recall, no.

17 Q Because the window that you would have
18 been able to see would have been the passenger's
19 side since that was what was closest to you,
20 correct?

21 A Yes.

22 Q And it was all the way down?

23 A Yes.

24 Q And did one of the officers speak
25 first or did someone else speak to the officers?

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1 A One of the officers spoke first.
 2 Q And do you know which officer that
 3 was?
 4 A Initially I don't know which one it
 5 was, no.
 6 Q What was said initially?
 7 A "Get going, you fucking jerk-offs."
 8 Q Now, is the reason why you don't know
 9 who uttered those words is because you weren't
 10 looking at the passenger when those words were
 11 spoken?
 12 A Pamela was -- Pamela was by the car
 13 talking to them or attempting to talk to them.
 14 Q Well, how do you know that she was
 15 talking to them?
 16 A The window was down and she was
 17 standing in front of the window talking.
 18 Q She was facing the officers at this
 19 point with the window open?
 20 A Yes, correct.
 21 Q But did you know whether or not she
 22 was talking at all with them or are you assuming
 23 that she was talking?
 24 In other words, did you hear words that she
 25 was speaking to the officers?

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1 A She was standing inside the window. I
 2 don't know what conversation. I didn't really hear
 3 what was going on.
 4 Q When you say "inside the window," did
 5 you see --
 6 A Window is down and she was talking to
 7 them, not --
 8 Q She wasn't inside the window?
 9 A No. The window is down and she was in
 10 front of the window, you know, I remember hunched
 11 over, but, you know, talking.
 12 Q But you didn't hear her say anything?
 13 A No.
 14 Q You're just assuming that she was
 15 talking because she was facing them?
 16 A Yes, sir, because she was hunched
 17 over.
 18 Q If she was not talking, you wouldn't
 19 be able to dispute that?
 20 A If she was not talking --
 21 Q You couldn't dispute that because you
 22 can't hear any words she was talking. Is that
 23 right?
 24 A Again, window was down and she was
 25 hunched over in that position.

1 Q I understand that.
 2 A I assume she wasn't just staring at
 3 them. I assume she was talking.
 4 Q Those are two different things that
 5 could have been --
 6 A That could be true.
 7 Q My question is did you hear her speak?
 8 A No, I did not hear any question or --
 9 Q Or if she spoke at all, you don't
 10 know?
 11 A No, correct, correct.
 12 Q What you do know is that she turned to
 13 face the officers that was in that passenger's seat
 14 and appeared to be bent down in some fashion, based
 15 upon what you could see?
 16 A Correct.
 17 Q And while she was in that position is
 18 when you heard something being said?
 19 A Correct.
 20 Q And she would have been blocking your
 21 view of the passenger in that patrol car?
 22 A At that position, I looked. The cop
 23 was in his window and she was by his side.
 24 Q See if you can answer my question.
 25 Was your view of the officer in the

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1 passenger's seat blocked by Pamela?
 2 A When he said, "Get going"?
 3 Q Well, yeah. When she is standing in
 4 that position bent down, that's when you heard
 5 these words coming out of the patrol vehicle,
 6 correct?
 7 A Yes.
 8 Q Was she blocking your view of the
 9 officer from your position and her position?
 10 A She was blocking my view, and I looked
 11 up. I did see the officer. She moved back.
 12 That's what I was trying to explain to you.
 13 I'm sorry.
 14 Q You didn't see the officer that was
 15 speaking, and therefore that's the reason why you
 16 don't know who was speaking the words?
 17 A Correct.
 18 Q And do you have any idea who those
 19 words were being spoken to?
 20 A There was nobody around us, so I
 21 assumed it was us.
 22 Q Did you have any response to those
 23 words?
 24 A In Arabic I said to my friends, "Let's
 25 get going. We don't want any problems," and, like

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1 I said, at that point they were already about to
2 part anyway, Romain and Lindsay, and we just
3 grabbed ourselves and walked away.
4 Q Do you know what words you spoke in
5 Arabic?
6 A I said, "No, let's get going."
7 Q But you spoke words in Arabic, not in
8 English?
9 A Yes, correct.
10 Q And the words that you spoke meant
11 "Let's get going"?
12 A Yes. I spoke to Romain, "Let's go,"
13 and I turned around and told the guys, "Let's get
14 going."
15 Q Are all of the individuals in that
16 group, other than the man who had come from Egypt
17 who began to begin living in the country -- do you
18 know whether or not all of these individuals spoke
19 Arabic?
20 A Yes.
21 MS. O'CONNOR: Including Austin?
22 THE WITNESS: Austin, no.
23 Q So as far as you knew, Austin would
24 have been the only one --
25 A Correct.

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1 Q -- that didn't speak Arabic?
2 A Yes.
3 Q Did you take Arabic in school or did
4 you learn it from your household?
5 A Household.
6 Q Do your parents speak Arabic as a
7 routine to each other?
8 A Yes, sir.
9 Q And do they use Arabic in the
10 household or do you use English in the household
11 when you're at family functions?
12 A Arabic.
13 Q And I assume your parents are also
14 Muslim?
15 A Yes, sir.
16 Q And the Muslim religion that you
17 practice, do you practice out of a mosque?
18 A No, there's no mosque near me; but,
19 yes, at major holidays we go to mosques.
20 Q And your parents are in the same
21 position, that they only go to the mosque on major
22 holidays?
23 A They go when they -- basically we have
24 one -- Friday is our holy day and you have two
25 major holidays, so -- obviously I work. My

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1 parents, Friday -- prayers on Friday and then my
2 mom -- and like I said, I work, so I really don't
3 have the time.
4 Q I don't want to say it wrong. Are we
5 talking about a holy day or a holiday that you
6 refer to Friday?
7 A Friday is considered like a holy day.
8 Q A holy day?
9 A Every Friday.
10 Q And on these holy days that the family
11 goes to the mosque?
12 A Yes. In most part they go, yes.
13 Q Your parents go to the mosque each
14 Friday?
15 A Yes.
16 Q And what about you? You don't because
17 generally you're working?
18 A I work, but I do -- if it's slow
19 enough at work where I can go I step out and take
20 about an hour, hour and a half break, I step out.
21 Q And what do you do when you step
22 out --
23 A I go to the mosque, pray, and come
24 back to work.
25 Q Are you going to a different mosque

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1 than your parents go to when you're working?
2 A Yes, correct.
3 Q And when you're at work, and we're
4 talking about I guess back at the Toyota dealership
5 where you were working, what mosque did you go to?
6 A For years they didn't have any, so the
7 closest mosque was in New Brunswick -- not New
8 Brunswick, it's called -- at Toyota I didn't go.
9 Last couple years I did go because they opened a
10 mosque in Flemington, but that wasn't until a
11 couple years after.
12 Q And in 2004 --
13 A There was no mosque in Flemington. I
14 did not leave.
15 Q Therefore you didn't go to any mosque
16 when you were working at James Toyota?
17 A In 2004?
18 Q In 2004 or before.
19 A Correct.
20 Q Would you go out and pray outside of
21 work for an hour and pray?
22 A No.
23 Q So you didn't practice the holy day
24 when you were working at -- is it James Toyota?
25 A Correct.

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1 MR. KOBIN: Objection to form. You
2 answered.
3 Q Are there any other holy days other
4 than the Fridays?
5 A Yes, we have two. They're called Eid,
6 E-I-D, and those are your two major holidays.
7 Q Are you supposed to pray a certain
8 amount of time per day or per week when you're a
9 Muslim, a practicing Muslims?
10 A Yes, sir, five times a day.
11 Q Five times a day?
12 A If it's permitted.
13 Q In other words, if you have the time
14 to do so?
15 A Basically permitting -- if you're
16 driving, you can't pray. When you go home at
17 night, you're allowed to pray the five prayers at
18 once.
19 Q You can't pray while you're driving?
20 A No.
21 Q Why is that?
22 A It involves standing, kneeling and so
23 forth.
24 Q Okay. But you can't say the words
25 without being in a particular position?

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1 A Not really, no.
2 Q Okay. So therefore your religion and
3 the praying requires certain physical positions
4 that you need to get in in order to accomplish the
5 goal of the exercise?
6 A Correct.
7 Q And when you're not working, do you do
8 that?
9 A Yes.
10 Q The only time during the week that you
11 need to go to the mosque would be on Fridays?
12 A Yes.
13 Q And what time do you go on Fridays?
14 A Afternoon I -- usually about 1:15.
15 They start about 1:45. I leave work about 1:15.
16 Q And it goes for how long?
17 A Approximately -- actual prayer itself
18 is about five minutes. I'd say -- you do a
19 ceremony before that. The prayer is five minutes.
20 You're physically there 20, 25 minutes probably
21 from beginning to end.
22 Q If the service starts 1:45, is it
23 roughly a half-hour that you're there?
24 A Yes, roughly.
25 Q So then you would be done at 2:15, and

1 you could basically get back to work at that point?
2 A Two, 2:15, yes, in between there.
3 Q And would you do that in lieu of
4 taking a lunch?
5 A Yes.
6 Q Now --
7 MR. STONE: Can I just ask one
8 question?
9 Are women allowed in the mosques?
10 THE WITNESS: Yes, sir.
11 MR. STONE: In Egypt are women allowed
12 in the mosques?
13 THE WITNESS: Yes. Sometimes they
14 have different entrances or stuff; but, yes,
15 they're allowed.
16 BY MR. CONNELL:
17 Q How many children do you have?
18 A Two right now.
19 Q And was there a child born after this
20 incident?
21 A Yes.
22 Q What are the names and -- what's the
23 other age of your child that we didn't talk about
24 before?
25 A She's two years old.

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1 Q Her name?
2 A Nadia, N-A-D-I-A.
3 Q Now, the other child that was born is
4 your older daughter. Is that right?
5 A Yes.
6 Q And that child is Gabriella, correct?
7 A Correct.
8 Q And she was born on July 15th, 2002?
9 A Yes.
10 Q And is the mother of that child Flora?
11 A Yes.
12 Q And you weren't married to her at the
13 time though, right?
14 A Correct.
15 Q And is premarital sex allowed in the
16 religion?
17 A It's not.
18 Q It's not?
19 A Correct.
20 Q Is there any other part of your
21 religion that -- other than the fact that you had
22 an occasional drink and that you had premarital sex
23 and you don't go to the services, is there anything
24 else that's part of that religion that you were
25 unable to for one reason or another not to abide

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1 by?

2 MR. KOBIN: Objection to the form.

3 A No.

4 Q You said in Arabic, "Let's get going,"
5 words to that effect, to the group. Is that right?

6 A Yes.

7 Q And you were the one who uttered those
8 words?

9 A Yes.

10 Q And did the group say anything back?

11 A No. We all agreed, you know, it's
12 late at night, so we all started walking.

13 Q When you say you agreed, did they
14 verbally agree with saying anything?

15 A Yeah, "Let's go."

16 Q Did they say that in Arabic?

17 A I don't remember if it was said in
18 Arabic or English. We already agreed to "Let's
19 go," and we left.

20 Q Do you remember anyone in particular
21 who actually uttered the words "Let's go" or "I
22 agree" or anything like that, or did one person say
23 it or --

24 A It was a group. As general we all
25 agreed. Again, before the police arrived we were

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1 leaving; and, again, when the police came, we said,
2 "Let's go. We don't want any problems," and we all
3 walked away. Lindsay said "Bye" and we said "Bye."

4 Q When you said, "Let's go," is that all
5 you said? You didn't say, "Let's go. Let's avoid
6 any problems," did you?

7 A I said, "Let's go. Let's avoid any
8 problems."

9 Q Did anybody else speak? I know you
10 had basically an understanding that you all agreed,
11 but did anybody speak to voice that agreement?

12 A I assume, yes. Who it was, I don't
13 know.

14 Q All right. Okay. And then did you
15 begin to walk away?

16 A Yes.

17 Q And where did you begin to walk to?

18 A We started -- again, we started to
19 walk again to the street here (indicating).

20 Q And you don't remember the name of
21 that street, right?

22 A No, I never knew what it was.

23 Q For the record, we're talking about
24 the street that the Shell Station borders on. It
25 intersects with Easton Avenue, correct?

1 A Correct.

2 Q And so you began to walk across that
3 street?

4 A We -- yes. We started heading to the
5 street. We didn't physically cross the street yet.

6 Q Well, then what happened before you
7 got to the end of the street or to the curb?

8 A We noticed my wife. I saw my wife. I
9 saw my car driving down Easton Avenue, so we
10 stopped.

11 Q And, for the record, you indicated
12 from the 287 area, which we know is quite a
13 distance down; but she was heading back towards the
14 Olde Queens Tavern from where the car would have
15 been parked towards downtown New Brunswick?

16 A Yes.

17 Q And that's when you -- so you noticed
18 her at that point, and then what do you do once you
19 noticed her?

20 A We all stopped. We said, "There's
21 Flora," and we --

22 Q Who said, "There's Flora"? You did?

23 A I said, "There's Flora," and they
24 said, "Yeah, there's Flora," and then we started to
25 cross, cross back to Easton Avenue.

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1 Q You basically began to go back across
2 in front of the patrol car?

3 A Yes.

4 Q And do you know how close you came to
5 the patrol car when you began to in effect go back
6 towards where your wife was driving?

7 A Five, six feet, ten feet. I don't
8 know exactly.

9 Q But in front of the car though, right?

10 A Yes.

11 Q You didn't walk between the two cars?
12 You walked in front of the patrol car towards
13 Easton Avenue?

14 A Yes.

15 Q And then did you begin to cross Easton
16 Avenue?

17 A Yes.

18 Q You didn't yell out to her at all, did
19 you?

20 A No.

21 Q Did anybody yell out to her?

22 A I don't recall.

23 Q In your group obviously I'm talking
24 about.

25 In other words, when you saw her driving by,

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1 there was no attempt, "Whoa, Whoa," anything like
2 that?
3 A No. I mean I waved to her because
4 obviously she's looking down here; but no yelling,
5 no nothing (indicating).
6 Q No eye contact made between the two of
7 you that would have indicated she knew you were
8 there?
9 A No.
10 Q She was expecting you to be at the
11 Olde Queens Tavern, correct?
12 A Yes.
13 Q And you -- you left that tavern
14 together?
15 A Yes.
16 Q And you made the conclusion at that
17 point from in front of the tavern that the girls
18 would leave and go and get the car?
19 A Yes, the girls made that decision,
20 correct.
21 Q So now you're now moving in front of
22 the patrol car. Why --
23 MR. CONNELL: Bob, do you mind if I
24 put an angle in front of the patrol car indicating
25 it was also moving in the same direction?

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1 Why don't you do that?
2 MR. KOBIN: It's fine. Just do it,
3 Bill.
4 BY MR. CONNELL:
5 Q That triangle means it's going in the
6 same direction as the triangle that we put in front
7 of the girls' car.
8 A Okay.
9 Q And you agree that that's the
10 direction it was facing up until the point that
11 we're at in this testimony right now?
12 A Yes.
13 Q Okay. You're now moving back, the
14 whole group basically of you seven guys are moving
15 now back in front of the patrol car, and you're
16 beginning to pass or to cross Easton Avenue at that
17 point?
18 A Yes.
19 Q You never walked along the right side
20 of the patrol car, never walked along the left side
21 of the patrol car. You began to cross Easton
22 Avenue. Is that your testimony?
23 A I remember we crossed the street, yes.
24 Q Did you have any words with the police
25 officers up to this point?

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1 A No.
2 Q And the only words spoken to you up to
3 this point is, "Move along, jerk-offs," or
4 something to that effect?
5 A Correct.
6 Q What's the next thing that you recall
7 doing?
8 Strike the question. Let me ask the
9 question, and it will be easier.
10 Did you get --
11 MS. O'CONNOR: Can I ask a question?
12 Q Did you get across the street to the
13 other side of the street where Olde Queens Tavern
14 was?
15 A Yes.
16 Q Did you walk directly across there?
17 A We walked across the street. I don't
18 know what angle.
19 Q Before the police encountered you
20 again, you had actually gotten across the street
21 and were beginning to walk on the sidewalk?
22 A I was not next to the sidewalk, not on
23 the sidewalk.
24 Q Well, were you walking in the street
25 towards the Olde Queens Tavern or were you walking

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1 on the sidewalk towards the --
2 A I was in the street.
3 Q You were in the street?
4 A Yes.
5 Q Why did you not get onto the
6 crosswalk -- not the crosswalk, the sidewalk?
7 A I don't know. I was just walking.
8 Q Were there cars parked on Easton
9 Avenue all the way up to where the Olde Queens
10 Tavern was?
11 A I believe no. I don't recall.
12 Q This is when the taverns are getting
13 out, right?
14 A Yes.
15 Q Do you know whether or not there's a
16 tavern on the opposite side of the Shell Station?
17 A I don't believe so.
18 Q You don't believe so?
19 A Yes.
20 Q Do you know whether or not there's any
21 taverns between the corner opposite where the Shell
22 Station is and the Olde Queens Tavern?
23 A I don't know.
24 Q You don't know. Do you know whether
25 or not there's any taverns from the Shell Station

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1 up to the point where the Olde Queens Tavern is on
2 that side of the street?
3 A I don't know, no.
4 Q Is the street kind of busy at that
5 time of night between two and 2:30 in the morning
6 when the bars are getting out?
7 A Just regular traffic, most people
8 walking on foot to get their cars. I don't believe
9 you can park in that section. Again, I'm not sure.
10 I don't believe.
11 So just most people are on their foot. A
12 lot of people park -- a lot of cars were in the --
13 were in the gas station also.
14 Q If there were cars parked on the
15 street along the same side of the street where the
16 Olde Queens Tavern is, would you have been walking
17 to the left of those parked cars if there were cars
18 parked?
19 A Yes.
20 Q So then you would have been walking in
21 the travel lane if there were cars parked there, if
22 there were cars parked there, right?
23 A Correct.
24 MR. CONNELL: I want a picture marked
25 for identification. Mark this as -- make it P-1

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1 for identification.
2 (A photograph is received and marked
3 P-1 for identification by the reporter.)
4 BY MR. CONNELL:
5 Q I'm going to show you a picture that
6 depicts Easton Avenue, Shell Station, and, in the
7 background on the right, the Olde Queens Tavern,
8 and ask you whether or not you recognize that area
9 as being the street in question depicting the Shell
10 Station and Olde Queens Tavern halfway down the
11 block?
12 A Yes, sir.
13 Q See it all?
14 A I can't see the -- oh, there it is.
15 Okay.
16 Q You see the tavern?
17 A Yes.
18 Q And do you see that there are cars
19 parked on that side of the street that is on the
20 Olde Queens side of the street?
21 A Yes, sir.
22 Q Does that refresh your recollection --
23 obviously this picture wasn't taken at the time of
24 the incident, but does that picture and the
25 depiction of Easton Avenue refresh your

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1 recollection of that side of the street, whether or
2 not there would have been cars parked all along
3 that side of the street from the one corner to
4 where the bar was?
5 A I don't recall.
6 Q And do you have any idea approximately
7 how many cars would be parked on that side of the
8 street up to the Queens Tavern if there were cars
9 parked?
10 MR. KOBIN: Objection to the form.
11 Go ahead.
12 A I have no idea.
13 Q I can ask it another way.
14 Approximately how many feet would there be
15 from the corner to the Olde Queens Tavern?
16 A Maybe a hundred feet. I don't know.
17 I have no idea.
18 Q In any event, you acknowledge that you
19 were walking in the street and not on the sidewalk?
20 A Yes, sir.
21 Q And where was the remainder of your
22 group walking when you were in the street?
23 A We were all walking together. Some
24 were behind me, some were on the sidewalk.
25 Q So some of the group was also in the

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1 street walking towards the Olde Queens Tavern?
2 A I can't speak for the rest of them. I
3 was walking in the street. I was walking in the
4 front.
5 Q But that isn't my question. The only
6 way -- my question is if you have a recollection of
7 whether or not everybody was on the sidewalk,
8 everybody was in the street, some of you were on
9 the sidewalk, some of were you in the street?
10 A Again, we were just crossing the
11 street; and as we were crossing the street, we were
12 crossing to Olde Queens Tavern. That is a matter
13 of crossing. Some were on the sidewalk, one or
14 two. Romain was behind me. Our goal was to walk
15 up on the sidewalk and stand by the Olde Queens
16 Tavern.
17 Q How far were you walking towards the
18 Olde Queens Tavern in the street?
19 A I can't recall the distance.
20 Q Well, how far did you walk before the
21 officers confronted you the second time?
22 A Maybe ten feet, ten, fifteen feet,
23 twenty feet.
24 I mean if you have the -- have the house, I
25 can show you.

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1 Q Do you know which house you were in
2 front of?
3 A Possibly if I see the picture.
4 Q I show you that same picture and see
5 whether or not you can see it in P-1.
6 A It was the -- I believe the house
7 that's the one that goes in there, three houses
8 down (indicating).
9 Q It's a lower -- lower house, shorter
10 roof frame?
11 A Yeah. It looks like it's three --
12 would be the third house or building from the
13 corner, however far that is feet-wise.
14 MS. O'CONNOR: Third house from the
15 corner of Olde Queens or third house from the
16 corner of Shell?
17 THE WITNESS: From where the Shell
18 would be.
19 Q On the opposite side of the street?
20 A That's were the confrontation --
21 Q Let me show you this picture and see
22 whether or not it actually looks like the same
23 building.
24 This is the first building (indicating).
25 MR. CONNELL: Have this marked as P-2.

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1 (A photograph is received and marked
2 P-2 for identification by the reporter.)
3 Q I show you what's marked P-2, which
4 shows the intersecting street and a building on the
5 corner; and if you compare that with P-1, does it
6 look like it would be the same building but that it
7 may have possibly different entrances of the same
8 building?
9 A No, that's not the building in this
10 picture. I can't see that. It's down. It's past
11 that. I don't know where. I can't see from that
12 angle.
13 Q The building you pointed to is in P-1?
14 A Yes.
15 Q Why don't you point to the building
16 that you're talking about in P-1?
17 A This one right here (indicating).
18 Q Oh, okay. All right.
19 So the building you just pointed to, let's
20 just make a -- why don't you put an "X" and -- I
21 think you can put an "X" between the parked cars
22 that are there indicating the building that we're
23 talking about.
24 A (Witness complies.)
25 Q Make it a bigger one.

1 A (Witness complies.)
2 MR. KOBIN: Could we go off for one
3 second?
4 (At this point in the proceedings,
5 there is a discussion off the record.)
6 BY MR. CONNELL:
7 Q Would you agree you were still in the
8 street when you got to the point where the "X" was?
9 A Yes.
10 Q Would you agree that that's more than
11 ten or twenty feet from the corner?
12 A Yes.
13 Q It looks like it's approximately --
14 it's more than halfway to the Olde Queens Tavern,
15 whatever distance that is from the corner. Would
16 you agree with that?
17 A Possible, yes. That's why I said I
18 can show you in the picture. Distances, you know,
19 I'm here (indicating). I don't know distance-wise.
20 Q So you would have been basically
21 walking if there were cars parked to the left of
22 those parked cars. If there weren't cars parked,
23 you're walking in the gutter for the distance that
24 you cross from the Shell Station across the street
25 and then going towards the Olde Queens Tavern,

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1 correct?
2 A Correct, sir.
3 Q And Romain was at least one of the
4 guys also walking in the street behind you?
5 A Yes, sir.
6 Q You don't really remember how much of
7 the remainder of the seven guys there were that was
8 on the sidewalk as compared to on the street?
9 A Correct.
10 Q Now, the next thing that you
11 remember -- strike that question for a moment.
12 Before the officers approached for the
13 second time, do you remember having any
14 conversations with the guys in your group during
15 this walk of more than halfway towards the Olde
16 Queens Tavern?
17 A I was on the phone with my wife.
18 Q So if they were having any
19 discussions, is it fair you have no idea what they
20 were talking about?
21 A Yes.
22 Q And did you reach your wife on the
23 phone?
24 A Yes.
25 Q And what did you say to her and what